MT LEGISLATIVE HISTORY

Chapter 302 1974

Bill H 909 S _____ Original bill & hist. ___C

H. Committee on Judiciary S. Committee on Public Health Welfare & Safety

Hearing Date(s)			Hearing Date(s)		
	Jan 28	✓C		Mar 08	✓C
	Feb 13	✓C		_____	___C
	Feb 14	✓C		_____	___C
	_____	___C		_____	___C
Date Out	Feb 14	✓C		Mar 08	✓C

Did this bill originate in an interim committee? ___Yes ___No

Committee _____ Report _____

Opponent Mons Teigen, representing the Montana Stockgrowers Association, stated his organization is concerned about this legislation. The laws which became effective January 1, 1974 on trespassing are good and his organization likes them. The law has only been in effect for a couple of weeks. Would like to give it a year to see what will happen.

No other opponents.

Proponent Edward Butch, owner of a big ranch, stated he would like to see a better trespass law. Stated ranchers are businessmen too. Feels if this law will be written so that not even lawyers can understand it then it should be changed. Wants it changed so that it denies presence of person upon property without written consent.

No other proponents. No questions by committee members.

Hearing closed.

HOUSE BILL 1067 Representative Wallace Edland, District 4, is chief sponsor of this act to authorize probation officers for both adult and juvenile offenders to establish and join professional associations and to pay for membership in such associations with money from the general fund. He stated fees for other professionals to join their associations are paid for them.

Proponent Bob Silverman stated he supports this bill. Would like to see it pass. Wants his members to join their organization.

No other proponents. No opponents.

Representative Yardley questioned how much the fees are to which he was advised they are twenty-five dollars per year.

Representative Towe upon questioning was advised that there is one organization for both adult and juvenile probation officers and a separate one for juvenile probation officers. The juvenile officers membership would be fifty dollars per year.

Hearing was then closed.

Chairman Hall stated there were four proponents and nine opponents to according to a show of hands. He allowed twenty minutes to each side.

HOUSE BILL 909 Representative Larry Fasbender, District 13, chief sponsor of this act adopting certain provisions of the Uniform Alcoholism and Intoxication Act, increasing the tax on alcoholic beverages to create a fund for the programs authorized by this act and amending several sections of the code stated this is one of the most important pieces of legislation he has every been

honored to carry in the house. Has spent much time trying to work out the bugs in this bill. Has proposed amendments to bill to change language in two parts. (See exhibit of amendments). Stated do not intend to close down Galen, the license tax on liquor has been taken out and transferred. Revenue raised by this tax would be about $100,000 per year. The demand for liquor seems to be rather inelastic.

Proponent Robert L. Solomon representing the Department of Health and Environmental Sciences, recommended the bill Do Pass. Left prepared statement (see exhibit).

Proponent Jack H. Stimpfling, representing Forward Great Falls, Inc., feels this bill provides a reasonable, rational and realistic approach to alcoholism in Montana. Left prepared statement (see exhibit).

Proponent James P. Grainey, representing Alcoholism Programs of Montana, Inc. which is composed mostly of those working in this field would like to see them have some input into the operation. Would like to get the doctor to help in detoxification. Questioned the authority of the administration. They want to help the alcoholic and don't want to put up any money in research, grants or administration.

No more proponents.

Opponent Joe Beck, Deer Lodge, stated he was dismissed last Friday from the treatment center. Treatment has to go on their record. Would like to see this changed.

Opponent Walter Kuster, representing the Regional Alcoholism Association, Inc. from Missoula, stated it is premature to act on this bill at this time. Provided prepared testimony (see exhibit).

Opponent Mike Rouse, Helena, stated he appeared as a concerned citizen. Stated this is similar to bill passed in Minnesota. Provided prepared testimony (see exhibit).

Opponent John Risken, representing United States Brewers Association, stated they oppose that part of bill which has singled out brewing industry for taxes. Provided prepared testimony (see exhibit).

Opponent Al Dougherty, representing Montana Beer Wholesalers Association, stated they have no quarrel with the bill, only with the tax portion.

Opponent Don Garrity, representing Distilled Spirits Council of U.S., stated they support the treatment of alcoholism as an illness and not as a criminal offense but do not want to take the burden of paying for the program through taxes. Asked that Section 21 be deleted.

Leroy Wasich stated this bill raises a question with the public. They want to stick with proven success rather than experimental programs setting up treatment centers.

Bob Durkee, representing Montana Tavern Association, stated he had no quarrel with concept of bill but opposed the taxation as it will be with us forever.

No further opponents.

Representative Larry Fasbender, in closing, stated this bill is in Judiciary Committee because it is a Department of Public Health Taxation and legal problem so Speaker sent this bill to Judiciary because of its talents in all fields. Stated the consumption of alcohol has increased about seven percent per annum. The money realized would be used to build buildings, open centers and for various alcoholism treatment facilities around the state. Urged a Do Pass.

Hearing closed.

Upon questioning Representative Lucas found that federal funding amounts to $900,000 of which the state receives $200,000 and the rest goes to individual treatment centers. They will be coming back for more funds later, especially if federal funding ceases.

Chairman Hall stated that it was his intention to appoint a subcommittee on this bill to examine amendments that have been offered and to examine the purpose of Section 14.

Representative Greely, Baucus and Warfield were appointed by Chairman Hall to this subcommittee.

Representative Bell inquired if there was any thought given to limiting relatives who can put someone into the tank on involuntary commitments.

Representative McKittrick stated that in testimony indicated that in amendments will keep the taxes on but will have to ask for additional appropriations and found there was no guarantee taxes raised will go to this program. Also found in questioning that it would cause more problems to inculcate House Bill 988 into this bill.

Representative Roberts stated that he was intrigued by proposal dealing with decriminalization of alcoholics and was told this is the crux of the bill. Public intoxicant with treatment could well be on his way to cure. Revolving door situation. Criminal justice system isn't helping the alcoholic, he's still ending up in drunk jail and still dying there. Would like to get persons into treatment system right away.

Representative Greely questioned whether there were any federal provisions on reservation for high number of Indians who are

alcoholics and was advised there were programs funded which will end in 02 year.

Representative Baucus found in questioning that records will not be public information, will be confidential except by agencies authorized to see them including state auditors to see the show is being properly operated. In involuntary commitment it would be a matter of public record.

Hearing was then closed.

The meeting adjourned at 10:45 AM.

JOHN C HALL
by Dan Yardley VICE CHAIRMAN

JCH:pb

JOHN C. ~~HALL, CHAIRMAN~~

Fasbender

House Bill 909

Proposed Amendments.

Amend on page 1, line 19, after the word "Montana" by inserting the following:

"to recognize alcoholism as an illness and"

Further amend on page 2, line 10 after the figure "69-6216" by deleting the material "(3)"

Further amend on page 2, after the word "department" on line 14 and continuing through line 15, by deleting the material therein in its entirety

Further amend on page 2, line 16 after the figure "69-6216" by deleting the material "(3)"

Further amend on page 4, line 24, by deleting the word "school"

Further amend on page 6, line 11, by deleting the material "attorney general" and inserting in lieu thereof the material "department of justice"

Further amend on page 6, line 22, by deleting the word "division" and inserting in lieu thereof the word "department"

Further amend on page 12, beginning with the word "A" on line 14 and continuing through the material "arrest." on line 16, by deleting the material in its entirety.

Further amend on page 12, line 16, by deleting the word "shall" and inserting in lieu thereof the word "may"

Further amend on page 12, after the word "person" on line 17 by inserting the following:

"taken into custody under this section"

Further amend on page 13, line 9 after the word "facility" by deleting the punctuation "," and inserting in lieu thereof the word "and"

Further amend on page 13, line 10, by deleting the material "and has no funds,"

Further amend on page 13, beginning with line 18 and continuing through line 20, by deleting the material therein in its entirety

Further amend on page 15, line 12, by deleting the figure "69-6224" and inserting in lieu thereof the figure "69-6221"

Further amend on page 17, line 12, by deleting the material "one licensed physician who has" and inserting in lieu thereof the material

"two licensed physicians who have"

Further amend on page 17, line 22, by deleting the word "refused" and inserting in lieu thereof the word "refuses"

Further amend on page 18, line 6, by deleting the word "proof" and inserting in lieu thereof the word "evidence"

Further amend on page 18, line 9, by deleting the word "division" and inserting in lieu thereof the word "department"

Further amend on page 20, line 9, by deleting the material "an alcoholic" and inserting in lieu thereof the material "in need of treatment"

Further amend on page 21, line 21, by deleting the material "remain confidential" and inserting in lieu thereof the following:

"be kept confidential by the department and by anyone authorized by law to examine them"

Further amend on page 23, lines 13 and 14 by deleting the material "sections 69-6214 through 69-6228" and inserting in lieu thereof the material "this act"

Further amend on pages 23 and 24, beginning with line 23 on page 23 and continuing through the material "commitment," on line 1 on page 24, by deleting the material therein in its entirety and by inserting in lieu thereof the following:

"Where it appears to the satisfaction of a district court that an individual lacks self-control as to the use of alcoholic beverages, or uses alcoholic beverages to the extent that his health is substantially impaired or endangered or his social or economic function is substantially disrupted, the court may"

Further amend on page 24, line 4, by deleting the word "board" and inserting in lieu thereof the material "department of revenue"

Further amend on page 24, line 13, by deleting the word "board" and inserting in lieu thereof the word "department"

Further amend on page 24, line 16, by deleting the word "board" and inserting in lieu thereof the word "department

Further amend on page 24, line 16, after the material "it." by inserting the following:

"All liquor not delivered to the department under this subsection may be confiscated and forfeited to the state."

Further amend on pages 25 and 26, beginning with line 2 on page 25 and continuing through line 10 on page 26, by deleting the material therein in its entirety and renumbering the subsequent sections accordingly.

Further amend on page 26, after the word "facility" on line 17 and continuing through the word "sciences" on line 19, by deleting the material therein in its entirety

Further amend on page 26, line 19, by deleting the word "director" and inserting in lieu thereof the words "department of institutions"

Further amend on page 26, lines 21 and 22, by deleting the words "to comply with" and insert in lieu thereof the words "consistent with the"

Further amend on page 26, line 23, after the word "sciences" by inserting the material "under section 69-6216"

Further amend on pages 26 and 27, after the word "section" on line 24 on page 26 and continuing through line 1 on page 27, by deleting the material therein and inserting in lieu thereof the following:

" :

(a) "Alcoholism" means a chronic illness or disorder of behavior characterized by repeated drinking of alcoholic beverages to an extent which endangers the drinker's health, interpersonal relations or economic functioning, or to an extent which endangers the public health, welfare or safety.

(b) "Alcoholic" has the meaning given it in section 69-6212 (1)."

Further amend on page 27, line 10 by deleting the material therein in its entirety and inserting in lieu thereof the material

"sections 69-6211 through 69-6227:"

Further amend on page 28, line 14, by deleting the material "Montana liquor control board" and inserting in lieu thereof the material "department of revenue"

Further amend on page 28, line 21, by deleting the material "Montana liquor control board" and inserting in lieu thereof the material "department of revenue"

Further amend on page 29, line 2, by deleting the material "Montana liquor control board" and inserting in lieu thereof the word "department of revenue"

Further amend on page 29, beginning with the word "alcoholism" on line 10 and continuing through the material "69-6231" on line 11, by deleting the material therein in its entirety and inserting in lieu thereof the material "general fund"

Further amend on page 29, line 13, by deleting the word "board" and inserting in lieu thereof the word "department"

Further amend on page 29, line 17, by deleting the material "Montana liquor control board" and inserting in lieu thereof the material "department of revenue"

Further amend on pages 30 and 31, beginning with the word "alcoholism" on line 25 on page 30 and continuing through the material "69-6227" on line 1, page 31, by deleting the material therein in its entirety and inserting in lieu thereof the material "general fund"

Further amend on page 31, beginning with line 2 and continuing through line 24, by deleting the material therein in its entirety and renumbering the subsequent section accordingly

January 28, 1974

OUTLINE OF TESTIMONY REGARDING HOUSE BILL NO. 909

Robert L. Solomon, Chief, Alcohol and Drug Dependence Bureau, Montana Department of Health and Environmental Sciences

*1. Declaration of Policy -- It is the policy of the State of Montana to recognize alcoholism as an illness and that alcoholics and intoxicated persons may not be subjected to criminal prosecution because of their consumption of alcoholic beverages but rather should be offered a continuum of treatment in order that they may lead normal lives as productive members of society.

*2. Powers of Department -- state authority
Provide for uniformity of budget, program operation reporting, planning and standards

*3. Comprehensive program for treatment -- Page 7, lines 4-20, H.B. 909

*4. Voluntary commitment procedures
Civil rather than criminal procedures

*5. Decriminalization of public intoxication

*6. State treatment facility -- refer to H.B. 988

7. Funding procedures -- Governor Judge, State of the State Message, 1/9/74
"I support the concept of utilizing a portion of the profits from the state liquor monopoly to improve rehabilitation services for alcoholics. Many Montanans are afflicted with drinking problems and the state has an obligation to help people escape the oppression of this disease."
HR 11387 -- Special Grant Provision - NIAAA

8. Act adopted in 16 states and District of Columbia - Page 81, State Plan
Being considered in 15 states
Liquor revenue utilized in 12 states

9. Act endorsed by:
Secretary of HEW
Both Houses of Congress
Attorney General of the United States
Alcohol & Drug Problems Association of North America
National Council on Alcoholism
AFL-CIO
Montana Association for Social Concerns
League of Cities and Towns
Alcoholism Programs of Montana, Inc.
Jaycees

10. Time for full implementation -- 18 months

11. Note asterisks -- Pages 3-14, 1974 State Plan

12. Recommendation -- <u>DO PASS</u>

THE McLAUGHLIN RESEARCH INSTITUTE
COLUMBUS HOSPITAL
GREAT FALLS, MONTANA 59401

January 28, 1974

To: Representative John C. Hall and Members of the House Judiciary Committee

Subject: Uniform Alcoholism and Intoxication Act - HB-909

From: Jack H. Stimpfling, Ph.D. - Director of The McLaughlin Research Institute, Board Member of Cascade County Committee on Alcoholism, Member of Forward Great Falls, Inc.

The purpose of this statement is to strongly urge your support of HB-909. I think you will agree that the illness of alcoholism is a serious health and social problem in Montana. The establishment of the Resocialization Center in Great Falls and similar facilities in other cities of the state are part of a serious effort to deal at the local level, with alcoholism and its many ramifications. Although Forward Great Falls has aided the alcoholism-treatment center in securing city and county revenue-sharing funds, we recognize that the future well-being of the program in Great Falls and elsewhere, is contingent on a more secure source of support.

HB-909 is a rational approach to the problem of alcoholism and if adequate funding is provided to implement its provisions, the state will have taken a significant step toward dealing with the problem.

NAME: Walter Custer DATE: 1/28/74

ADDRESS: 506 South Ave W. Missoula Mont. 59801

REPRESENTING WHOM? Regional Alcoholism Assn., Inc.

APPEARING ON WHICH BILL? HB 909

DO YOU: SUPPORT? yes * AMEND? _____ OPPOSE? _____

COMMENTS: * It is premature to act on this Bill at this session of the Legislature. See letter and attachment.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

Regional Alcoholism Association, Inc.

506 South Avenue West
Missoula, Montana 59801
January 28, 1974

Judiciary Committee
House of Representatives
Room 436, State Capitol
Helena, Montana 59601

Re: HB 909
Uniform Alcoholism and Intoxication Act

Dear Sirs:

In our opinion it would be premature to act on HB 909 at this session of the Legislature.

This bill has not been publicized to anywhere near the extent that its importance warrants. If a respectable campaign to inform the Montana public is not carried out, we fear that the passage of this bill could result in far more confusion than progress.

To the best of our knowledge, the active support for this legislation comes mostly from those who are interested in tax money to support their operations. This in itself is not necessarily bad, but this restricted base of active support needs to be expanded considerably with the inclusion of many other people who are less directly involved.

The tax-supported programs on alcoholism in Montana would be strengthened if the voluntary effort headed by the National Council on Alcoholism became active in this state. (The attachment summarizes the program of the National Council.) The NCA approach stresses the need for an informed public for the effective delivery of services to the alcoholic.

Sincerely,

one attachment

Walter Custer, Sec.-Treas.

Role of the National Council on Alcoholism*

Counterpart to Tax-supported Services

Nowhere in Montana is there an organization on alcoholism that is an affiliate of the National Council on Alcoholism. NCA is the only voluntary agency on alcoholism in America, and it ranks with other major voluntary health agencies like the Red Cross and the Heart Association.

There is a growing network of local councils on alcoholism, in partnerships with NCA, which has not yet taken root anywhere in Montana. According to a recent count, there are 128 such organizations now in action in various communities across the country. All of these are voluntary organizations, funded through voluntary contributions, and the counterpart to tax-supported programs.

From its founding in 1944, the National Council on Alcoholism has based its work on the following fundamental concepts:

> Alcoholism is an illness and the alcoholic is a sick person.
> The alcoholic can be helped and is worth helping.
> This is a public problem and therefore a public responsibility.

The main thrust of NCA and its affiliates is to help others understand and act in accordance with these three basic concepts, and through this, to involve others in the responsibility to conquer alcoholism.

The affiliate of NCA operates an Alcoholism Information Center as headquarters for its activities, and as a place where anybody can come for consultation and referral at no cost.

Neither NCA nor its affiliates operate treatment or rehabilitation services, but they work to gain for alcoholism the same professional attention and community concern as for other disabling diseases.

The only concern of NCA is the disease of alcoholism. It is neither "wet" nor "dry", nor does it make any attempt to influence drinking customs. It has no organizational connection with AA, but regards this fellowship as a major resource.

* This brief outline of the program of NCA, its basic mature, scope and purposes, was prepared by Walter Custer in January, 1974, and is intended only as enough to catch the interest of those who want to find out more about it.

Regional Alcoholism Association, Inc.

June 1973

Board of Directors		Office	Home
Vern Hoven, President	2200 Brooks, Missoula	549-5186	549-3626
Walter Custer, Sec.-Treas.	506 South Avenue West, Missoula		549-1874
Neil Bratton	Huson, Montana 59846		823-5501
Wallace Clark	427 West Pine, Missoula		543-4976
G. E. Herndon	122 West Alder, Missoula	543-6264	549-4692
~~James Hurley, S. J.~~ *	420 West Pine, Missoula		542-0321
Cecil Williams	310 California, Missoula	543-3472	542-2674

* Has moved out of the State.

Following additional discussion among committee members, Representative Towe suggested introducing a House Resolution asking the state architects to study this problem.

Representative Bell stated that the simple fact of introduction of this bill has already caused a threat to the architects.

Representative Towe stated he would like the bill held in Committee and will put in two resolutions in lieu of this bill.

HOUSE BILL 909 Representative Greely stated he had asked Mr. Pat Melby of the Department of Business Regulation to help explain the proposed amendments to this bill to the committee.

Representative Greely, in explaining proposed amendments to bill stated a key change was on page 16, section 11 pertaining to involuntary commitment of alcoholics. Committee decided Department of Health should supervise Department of Institutions; where before bill said Department of Health now means Department of Institutions. This also includes prison and juvenile schools. Is for involuntary commitment.

Another change is on page 17, line 12. Because in the past had a jury of two physicians and one testifying, now no requirement for physician in jury subcommittee has changed this to two licensed physicians to testify. Change on page 18, line 6 which strikes the word "proof" and inserts in lieu thereof the word "evidence".

The subcommittee had trouble on page 21, lines 19 through 22 with registration records of treatment facility being kept confidential. Have changed the "may" to "shall" be kept confidential. Feels this isn't going to open up all alcoholics records to the whole world but might make a public officials record available.

Representative McKittrick stated that with this last amendment are changing the whole process on alcoholics treatment. Thinks should get a court order to get into records. Representative Baucus stated he respectfully disagrees with Representative Greely also and agrees with Representative McKittrick in this matter.

On page 23 have deleted lines 23 through 25 and inserted new material because according to Mr. Melby the way original draft was written would take flexibility away from the court. Put old language back in. Representative McKittrick questioned whether Mr. Melby felt burden of proof is more than a preponderance of the evidence. Mr. Melby stated he would say so.

Subcommittee has stricken sections 18 and 19 entirely, have eliminated alcoholic treatment fund and have added a new section 21, the purpose of which is to make sure there is co-ordination on part of Department of Health and Department of Institutions.

One amendment was left out on page 20, line 9 in which the words "an alcoholic" should be stricken and "in need of treatment" inserted in lieu thereof.

Representative Greely stated he doesn't see any problem with implementing the bill. Commitment proceedings go into effect July 1, 1974.

Acting Chairman Yardley stated that the amendments to page 26 done in previous meeting should be rescinded since these amendments make them obsolete. Stated if no objection will deem previous amendments be rescinded. No objection.

Under this bill as amended have eliminated possible jurisdictional dispute by saying Department of Institutions operates under regulations, Department of Institutions has complete control over patient admitted to their custody, Department of Institutions promulgates rules for patient in private and public treatment facilities. Involuntary commitment would be under care of Department of Health. Will have the two departments cooperating for after care.

Representative Marbut suggested requirements under section 21 be in respect to both departments.

Representative McKittrick stated that in this bill we are taking funding away from the state and imposing a tax on our businessmen to pay for it. Will this engender enough revenue to pay for it. Mr. Melby stated that in his belief that when any facet of society causes ills that society should pay for damage.

Acting Chairman Yardley stated the committee will vote on amendments as they are made.

Representative Marbut moved to amend the proposed amendment to page 21, line 21 by striking the word "may" and inserting in lieu thereof the word "shall".

Representative Greely stated that under the new constitution feels these will be kept confidential and very seriously rejected Representative Marbut's amendment.

Representative Towe proposed changing the language to this amendment to read "shall be kept confidential unless the right to know clearly exceeds the demand to individual privacy".

Representative Marbut stated the whole idea is about stimulating treatment and using the word "shall" will discourage treatment. Representative Roberts made a substitute motion to encompass the language proposed by Representative Towe. Following discussion the motion failed with Representatives Greely, and Roberts voting yes. Original motion by Representative Marbut by changing may to shall carried with Representatives Roberts and Greely voting no.

Time ran out and the meeting adjourned at 9:40 AM.

DY:pb

DAN YARDLEY, VICE-CHAIRMAN

(Howe)

February 14, 1974

Amendment to House Bill 909 of the introduced bill by amending section 11, page 17, line 13, after the word "sought." add the following new sentence: "The person shall have a right to have a licensed physician of his own choosing examine him and testify on his behalf, and if he has no funds with which to pay such physician, the reasonable costs of such examination and testimony shall be paid by the county.", and

be further amended in section 11, page 17, line 15 by deleting or striking the words "in this event" and inserting in lieu thereof the words "he shall be advised of his right to counsel and, if he is unable to hire his own counsel, the court shall appoint an attorney", and

be further amended in section 11, page 17, line 16 by striking the words "guardian ad litem", and

be further amended in section 11, page 17, lines 16 and 17 by striking the words "throughout the proceeding" and inserting in lieu thereof the words "at the expense of the county.", and

be further amended in section 11, page 17, line 19 by striking all of the material after the word "chambers." and by striking all of line 20 and all of line 21 except the words "if he", and

be further amended in section 11, page 17, line 22 after the word "refuses" add the following words "an examination by a licensed physician", and

be further amended in section 11, page 18, line 22 by deleting the words "after examination" and inserting in lieu thereof ", based on his actions while in custody", and

be further amended in section 11, page 18, line 23, after the word "exists." by adding the following new sentence: "in either event, a person shall be apprised of his rights and given an opportunity to request a hearing on the question of whether he should be recommitted.", and

be further amended in section 11, page 19, line 8 by striking the words "after examination" and inserting in lieu thereof the words ", based on his actions while in custody,", and

be further amended on page 17, line 9 after the word "exists." by inserting the following new words "in either event, the person shall be apprised of his rights and given an opportunity to request a hearing on the question of whether he should be recommitted."

AMENDMENT TO HOUSE BILL NO. 909

Mr. Chairman: I move to amend House Bill No. 909 of the introduced bill by adding a new section at the end of the bill after "Section 21" which will read as follows: "Section 22. But the department shall seek the advice of the alcohol and drug dependents advisory council before spending any monies appropriated or otherwise specifically granted for the treatment and rehabilitation of alcoholics or the prevention of alcoholism."

2nd sub

House Bill 909

Proposed Amendments.

Amend on page 1 of the introduced bill, line 4, by deleting the material "69-6203, 80-2404,"

Further amend on page 1, after the word "ADOPTING" on line 7 by inserting the material "CERTAIN PROVISIONS"

Further amend on page 1, line 10, by deleting the material "THE UNIFORM" and inserting in lieu thereof the word "THIS"

Further amend on page 1, line 11, by deleting the material "69-6203, 80-2404,"

Further amend on page 1, line 19, after the word "Montana," by inserting the following:

"to recognize alcoholism as an illness and"

Further amend on page 2, line 10 after the figure "69-6216" by deleting the material "(3)"

Further amend on page 2, after the word "department" on line 14 and continuing through line 15, by deleting the material therein in its entirety

Further amend on page 2, line 16 after the figure "69-6216" by deleting the material "(3)"

Further amend on page 4, line 24, by deleting the word "school"

Further amend on page 6, line 11, by deleting the material "attorney general" and inserting in lieu thereof the material "department of justice"

Further amend on page 6, line 22, by deleting the word "division" and inserting in lieu thereof the word "department"

Further amend on page 12, beginning with the word "A" on line 14 and continuing through the material "arrest." on line 16, by deleting the material in its entirety.

Further amend on page 12, line 16, by deleting the word "shall" and inserting in lieu thereof the word "may"

Further amend on page 12, after the word "person" on line 17 by inserting the following:

"taken into custody under this section"

Further amend on page 13, line 9 after the word "facility" by deleting the punctuation "," and inserting in lieu thereof the word "and"

Further amend on page 13, line 10, by deleting the material "and has no funds,"

Further amend on page 13, line 10, by deleting the material ", if any"

Further amend on page 13, beginning with line 18 and continuing through line 20, by deleting the material therein in its entirety

Further amend on page 15, line 12, by deleting the figure "69-6224" and inserting in lieu thereof the figure "69-6221"

Further amend on page 14, line 16, by deleting the word "division" and inserting in lieu thereof the word "department"

Further amend on page 16, after the word "department" on line 2, by inserting the words "of institutions"

Further amend on page 17, line 12, by deleting the material "one licensed physician who has" and inserting in lieu thereof the material

"two licensed physicians who have"

Further amend on page 17, line 22, by deleting the word "refused" and inserting in lieu thereof the word "refuses"

Further amend on page 17, after the word "department" on line 25, by inserting the words "of institutions"

Further amend on page 18, after the word "department" on line 4, by inserting the words "of institutions"

Further amend on page 18, line 6, by deleting the word "proof" and inserting in lieu thereof the word "evidence"

Further amend on page 18, line 9, by deleting the word "division" and inserting in lieu thereof the word "department"

Further amend on page 18, after the word "department" on line 7, by inserting the words "of institutions"

Further amend on page 18, line 9, by deleting the word "division" and inserting in lieu thereof the words "department of institutions"

Further amend on page 18, after the word "department" on line 13, by inserting the words "of institutions"

Further amend on page 18, after the word "department" on line 16, by inserting the words "of institutions"

Further amend on page 18, after the word "department" on line 21, by inserting the words "of institutions"

Further amend on page 18, after the word "department" on line 25, by inserting the words "of institutions"

Further amend on page 19, after the word "department" on line 2, by inserting the words "of institutions"

Further amend on pages 19 and 20, beginning with line 23 on page 19 and continuing through line 2 on page 20, by deleting the material therein in its entirety and renumbering the subsequent subsections accordingly

Further amend on page 20, after the word "department" on line 4, by inserting the words "of institutions"

Further amend on page 21, line 9, by deleting the material contained therein in its entirety and inserting in lieu thereof the following: "department of institutions may"

Further amend on page 21, line 21, by deleting the material "shall remain confidential" and inserting in lieu thereof the following:

"may be kept confidential by the department and by anyone authorized by law to examine them"

Further amend on page 23, lines 13 and 14 by deleting the material "sections 69-6214 through 69-6228" and inserting in lieu thereof the material "this act"

Further amend on pages 23 and 24, beginning with line 23 on page 23 and continuing through the material "commitment," on line 1 on page 24, by deleting the material therein in its entirety and by inserting in lieu thereof the following:

"Where it appears to the satisfaction of a district court that an individual lacks self-control as to the use of alcoholic beverages, or uses alcoholic beverages to the extent that his health is substantially impaired or endangered or his social or economic function is substantially disrupted, the court may"

Further amend on page 24, line 4, by deleting the word "board" and inserting in lieu thereof the material "department of revenue"

Further amend on page 24, line 13, by deleting the word "board" and inserting in lieu thereof the word "department"

Further amend on page 24, line 16, by deleting the word "board" and inserting in lieu thereof the word "department

Further amend on page 24, line 16, after the material "it." by inserting the following:

"All liquor not delivered to the department under this subsection may be confiscated and forfeited to the state."

Further amend on pages 25 through 28, beginning with line 2 on page 25 and continuing through line 2 on page 28, by deleting the material therein in its entirety and renumbering the subsequent sections accordingly

Further amend on page 28, line 14, by deleting the material "Montana liquor control board" and inserting in lieu thereof the material "department of revenue"

Further amend on page 28, line 21, by deleting the material "Montana liquor control board" and inserting in lieu thereof the material "department of revenue"

Further amend on page 29, line 2, by deleting the material "Montana liquor control board" and inserting in lieu thereof the word "department of revenue"

Further amend on page 29, beginning with the word "alcoholism" on line 10 and continuing through the material "69-6231" on line 11, by deleting the material therein in its entirety and inserting in lieu thereof the material "general fund"

Further amend on page 29, line 13, by deleting the word "board" and inserting in lieu thereof the word "department"

Further amend on page 29, line 17, by deleting the material "Montana liquor control board" and inserting in lieu thereof the material "department of revenue"

Further amend on pages 30 and 31, beginning with the word "alcoholism" on line 25 on page 30 and continuing through the material "69-6227" on line 1, page 31, by deleting the material therein in its entirety and inserting in lieu thereof the material "general fund"

Further amend on page 31, beginning with line 2 and continuing through line 24, by deleting the material therein in its entirety and renumbering the subsequent section accordingly

Further amend on page 31, after line 24, by inserting the following:

"Section 21. The department shall achieve full implementation of the provisions of the Act, as set forth in this chapter and related sections, no later than January 1, 1976. A progress report on the implementation shall be made to the 1975 legislative session. Thereafter the department shall report, to each legislative session, on the status of the implemented Act. This report, or any part thereof, may be included as the department's state plan for alcohol abuse and alcoholism."

JUDICIARY COMMITTEE

February 14, 1974

EXECUTIVE SESSION

The twenty ninth meeting of the House Judiciary Committee was called to order in Room 436 of the Capitol Building at Helena, Montana on Thursday, February 14, 1974 at 9:10 AM. Representative Dan Yardley, Vice-Chairman, presided. All members were present except Representatives Hall, Brown, Lucas and Roberts, absent, excused.

HOUSE BILL 909 Committee went through proposed amendments to this bill in meeting held February 13th. One amendment was made which changed the word "may" to "shall" on page 21, line 21 of the proposed amendment to this bill.

Representative Marbut moved to amend the procedural amendment on page 31, last page of the printed form which amends the new section 21 by inserting after the word "department" in first line of section 21 the new material "and the department of institutions", also amend by adding wherever the word "department" is used the new material after the word "department" "of institutions". Motion to amend carried.

Representative Greely moved the adoption of his amendments as amended with exception of the last amendment pertaining to new section 21.

Representative Towe moved to amend the amendment to page 17, line 12 in which regulation requiring two licensed physicians to testify was made by changing the "two" to "one". Representative Greely agreed with this amendment. Motion carried to amend the amendment.

Representative Lucas questioned whether we are in any way modifying control of the Department of Institutions for center for alcoholic treatment to which Representative Greely replied no.

Representative Bell stated he doesn't like this bill.

Motion by Representative Greely to adopt his amendments as amended carried. (For copy of amendments see exhibit).

Committee then took for consideration amendments proposed by Representative Towe dated February 14, 1974. (see exhibit).

Representative Towe stated that the whole purpose of his first amendment to page 17 is so a person may have counsel. Representative Lucas moved to amend this amendment after the material "reasonable costs of" by inserting the word "one", limiting to one examination.

Representative Towe explained that his second proposed amendment was to insure that the court shall appoint a counsel to represent the individual and this goes into amendment number three as well as the following three amendments.

Representative Towe stated that his proposed amendment to page 18, line 22 was a result of his learning in his study of mental commitments and doing this in California that release should be based on alcoholics actions while in custody. The last amendment of Representative Towe's gives an opportunity for hearing, he stated the key here is "opportunity".

Representative Greely questioned if it was Representative Towe's idea that they couldn't take into consideration the alcoholic's past behavior to which Representative Towe replied by reading the provisions in bill on this and stated that if he has been committed because he is likely toinflict bodily harm then if he shows signs of this they can retain him. Stated that in California this has been so abused and used to keep people held in for long period of time. Feels if he has been a model person there is no reason to hold him any longer.

Representative Lucas stated he thinks this is unreasonable. Representative Greely stated he thinks that the hearing procedure allowing a first hearing, then thirty days later another hearing, then in ninety days another hearing at expense of taxpayer is allowing too many hearings and is against this. He contended the court can maintain jurisdiction of the committed person. Representative Towe stated he feels very strongly about the hearing procedure.

Motion to accept the first six amendments as proposed by Representative Towe carried with Representatives Greely and Lucas voting no.

Motion on the seventh and ninth amendments pertaining to "based on his actions while in custody" failed.

Motion to amend in the third from bottom amendment pertaining to page 18, line 23 after the word "exists" failed on a tie vote.

Motion to amend in the last amendment carried with Representatives Yardley and Greely voting no.

Motion to amend on page 19, line 3 after the word "order" by inserting the material "from the district court of the committing district" by Representative Towe carried. Also, motion to amend same language on page 18, line 17 carried in the same motion. Representative McKittrick and Baucus voted no.

Representative Marbut stated he objects to the amendment making a new section 21 as proposed in set of proposed amendments and not voted on along with the others.

Motion to amend by adding a new section 21 as proposed in last proposed amendment on page 3 carried.

Committee now moves into area of bill regarding funding of the program. Representative Warfield stated he thinks this bill is great because of a lot of other things but wants to fund this out of profits as proposed by the Governor. If appropriate money from the general fund it will be those drinking who are paying for it.

Representative McKittrick concurred with Representative Warfield and stated this industry is hardest hit everytime we need a new tax.

Representative Bell stated he thought committee is jeopardizing the bill by slapping a new tax on booze.

Representative Warfield moved to delete sections 21 and 22 in their entirety which would leave the tax where it is.

Representative Towe stated the state does make a lot of money on booze, has never been any listing of expenses out state is put to for alcoholics. Is afraid the appropriations committee will say they haven't got the money to implement this program.

Representative Baucus stated he doesn't think the Finance and Claims Committee will increase appropriations and if not earmarked it goes to the general fund. Representative Greely questioned whether the bill could stand on its own with or without the tax.

Motion to delete sections 21 and 22 carried.

Motion DO PASS AS AMENDED carried unanimously.

Representative McKittrick stated he would hope this committee would look with favor on amendments and if amendments do change philosophy of bill then scrutinize the bill closely.

HOUSE BILL 1024 Representative Towe, chief sponsor of this bill known as the Montana Privacy Act provided each committee member with a copy of his proposed amendments and stated most of the amendments are technical and are not substantive.

Representative Towe explained that amendment number three on page 1 relates to the landlord tenant situation. Amendment number four on page 1 was requested by the telephone company, amendment number five on page 1 was suggested by Mr. Roy of the Communications Bureau. Representative Lucas inquired as to whether cable TV was included in this last amendment. Representative Towe answered no.

MINUTES OF THE MEETING
PUBLIC HEALTH, WELFARE AND SAFETY COMMITTEE
MONTANA STATE SENATE

March 8, 1974

The twenty-second meeting of the Public Health, Welfare and Safety Committee was called to order by Chairman Flynn on the above date in Room 405 of the Capitol Building at 12:55 p.m.

ROLL CALL: All members were present with the exception of Senators Cochrane and Story.

CONSIDERATION OF HOUSE BILL NO. 909: Representative Fasbender, sponsor, said this is an act to adopt certain provisions of the uniform alcoholism and intoxication act, increasing the tax on alcoholic beverages to create a fund for the programs authorized by this act. An amendment to the bill provides that Montana recognize alcoholism as an illness and that alcoholics and intoxicated persons may not be subjected to criminal prosecution because of their consumption of alcoholic beverages.

Proponents of the bill included:

Robert L. Solomon, Department of Health and Environmental Sciences (testimony attached as Exhibit "A"); Ed Kellner, Department of Institutions (Exhibit "B"); Margaret Zednick, Rehabilitative Services Division, (Exhibit "C"); Harry L. Billings, Director of Education of the Montana State AFL-CIO (Exhibit "D"), and Judge William Coder of Great Falls, who said this bill will decriminalize only the state of intoxication. He said 80 percent of the cases in his court are alcohol related.

Opponents included:

Don Garrity; Phil Strope, Montana Tavern Association; Curtis Lees, Yellowstone Tavern Association, who said his group is not opposed to the bill, but rather to the method of financing it (testimony attached as Exhibit "E"); Al Dougherty, Montana Retailers, who submitted copy of an article on the perils of decriminalization (Exhibit "F"); John H. Risken, United States Brewers Association, Inc.

CONSIDERATION OF HOUSE BILL NO. 1066: This bill, a companion to HB360, was explained by the sponsor, Representative Baucus. It provides that capital outlay be included in per diem charges assessed against residents, or responsible persons, of certain state institutions and that residents or responsible persons be assessed for identifiable, direct, patient service expenses. He said there had been one problem with the bill which was corrected in House committee, and that amended the bill so that an assessment made by the department under this bill shall be based on the resident's or responsible person's ability to pay. The department shall not make an assessment which would place an undue financial burden on the resident or the responsible person.

Proponents of the bill included:

Pat Melby, Attorney, Government Operations; Ken Rohyans, Montana Association for Retarded Children and Adults; and Frank Smoyer (testimony attached, Exhibit "H").

DISPOSITION OF HOUSE BILL NO. 360: Senator Breeden moved that the amendments to HB360 proposed by Representative Marbut at the time the bill was heart BE ADOPTED. The motion was seconded by Senator Bollinger and carried unanimously.

Senator McDonald moved that House Bill No. 360, AS AMENDED BE CONCURRED IN. The motion was seconded by Senator Hall and carried, with Senators Himsl and Lowe voting NO.

DISPOSITION OF HOUSE BILL NO. 1066: Senator McDonald moved that HB1066 BE CONCURRED IN. The motion was seconded by Senator Bollinger and carried unanimously.

DISPOSITION OF HOUSE BILL NO. 909: Senator Breeden moved that HB909 BE CONCURRED IN. The motion was seconded by Senator Zody and carried on a Roll Call Vote of 6 to 3.

ADJOURN: This concluded the business before the committee, and the meeting was adjourned at approximately 1:45 p.m.

Elmer Flynn
SENATOR ELMER FLYNN, CHAIRMAN

ROLL CALL

PUBLIC HEALTH, WELFARE
& SAFETY COMMITTEE

SECOND HALF - 43rd LEGISLATIVE SESSION 1974 Date 3/8/74

NAME	PRESENT	ABSENT	EXCUSED
Chairman FLYNN, Elmer - D.	X		
Vice Chairman VAINIO, Leonard - D.	X		
BOLLINGER, Gordon - D.	X		
BREEDEN, J. W. - R.	X		
COCHRANE, Archie - R.			X
HALL, Mrs. Boots - D.	X		
HIMSL, Matt - R.	X		
LOWE, William - R.	X		
McDONALD, Jack - D.	X		
STORY, Pete - R.		X	
ZODY, A. A. - D.	X		

Each day attach to minutes

(Exhibit A)

Department of Health and Environmental Sciences
STATE OF MONTANA HELENA, MONTANA 59601

John S. Anderson M.D.
DIRECTOR

March 8, 1974

Mr. Chairman, and Members of the Public Health, Welfare & Safety Committee of the Montana State Senate:

I am Robert L. Solomon, Chief of the Alcohol and Dependent Drug Bureau, State Department of Health and Environmental Sciences. I wish to speak as a proponent of House Bill 909.

House Bill 909 is an Act adopting certain provisions of the Uniform Alcoholism and Intoxication Act, which is designed to provide a legal framework with which alcoholism and public intoxication may be viewed from a health standpoint as recommended by the courts, study commissions, and professional organizations throughout the United States. The Model Act was drafted by the National Conference of Commissioners on Uniform State Laws and approved and recommended for enactment in all the states at their annual conference in August of 1971.

This version of the Act has been adopted in 19 states, and the District of Columbia. Since the introduction of House Bill 909 in this session of the Montana State Legislature, 2 other states have enacted a similar Act. The Act is also being considered in over 15 other states legislatures.

The philosophy of the Uniform Act has been endorsed by the Secretary of Health, Education & Welfare, and both Houses of the United States Congress in Senate Bill 1125 and HR11387, which are currently in conference. Numerous national and state organizations have endorsed the Act.

As long as man ingests beverages that contain ethyl alcohol, C_2H_5OH, there will be alcoholism among us. It is a fact, an unfortunate one, that certain people do not have control of themselves or their drinking once they begin to drink alcoholic beverages. These people are known as alcoholics. There are also other drinkers known as problem drinkers that can drink alcoholic beverages, become intoxicated and often times incapacitated, but do have the ability to stop drinking. The public intoxicant is the person who is in the acute stage of inebriation, the alcoholic is the person with the long-term addictive problem. The concern of this piece of legislation is with the public intoxicant and the alcoholic.

Exhibit A of the materials given to you is our estimate of the percentage of the population of the state of Montana that could be considered alcoholic. Utilizing the information available from the

Social Research Group at George Washington University and the various trending data in the state of Montana, we are projecting a figure of 8.5% in non-Indian population as alcoholic. That would be 57,902 people. Because of the known effect of alcohol upon American Indians, we are using a figure of 50% of the Indian population as being alcoholic or incapacitated by the use of alcohol, which Indians themselves tell us is minimal. That is a figure of 13,565, or a total of 71,467 Montanans who are afflicted with the problem of alcoholism. If we consider the effect that each alcoholic or public intoxicant has on others, we have 285,868 other people in the state of Montana whose lives are directly affected each and every day. This is a significant problem!

Exhibit B of the material is a projected number of welfare cases with alcoholism problems, by number and category in Montana. These estimates are derived from sampling of 1970 and 1973 data from the Statistical Research Bureau of the State Department of Social and Rehabilitative Services. The categories of Aid to Dependent Children, Aid to the Blind, Old Age Assistance, and Aid to the Disabled were projected as a monthly total cost of welfare cases with alcohol problems of $212,000. This is a yearly total of over $2,500,000 of welfare payments, just to clients or families with alcoholism problems identified.

We are well aware of the statistics and data from the Montana Highway Patrol which show that over 50% of the drivers involved in fatal motor vehicle accidents have been drinking. I am sure that if we were to analyze the experience of various types of work related injuries we would find the drinking or the misuse of alcohol has a considerable impact. There is no question that the use of alcohol, coupled with the manly image that is projected by the rugged life in the western part of the United States, makes it possible, or almost mandatory, for some people in certain lines of work to be heavy drinkers. It is an unfortunate fact that in many of the communities of Montana, public intoxication and public drunkenness is tolerated, and in fact, is considered not to be unusual behavior.

House Bill 909 declares the policy of the state of Montana to recognize alcoholism as an illness and that alcoholics and intoxicated persons may not be subjected to criminal prosecution because of their consumption of alcoholic beverages, but rather should be offered a continuum of treatment in order that they may lead normal lives as productive members of society.

House Bill 988 has been signed by Governor Judge. That Bill provides that the admission procedure to the State Hospital for alcoholism after July 1 will be on the basis of medical illness and not a psychiatric problem. The person will be admitted to the Galen State Hospital as an ill person. This is recognition by the state that alcoholism is an illness and should be considered as such.

The statute that you are considering defines the powers of the Department of Health and Environmental Sciences as the lead agency for alcoholism program planning and activity in the state. This will provide for a uniformity of budget systems, program operation, reporting, planning and standards. We do not intend to develop new and separate methods of delivery of services to alcoholics. It is our intention to maximize the utilization of existing Comprehensive Community Mental Health Centers, and existing community based alcoholism service programs, and to build upon them through affiliations, contracts and similar working arrangements. Every effort will be made to upgrade existing programs and facilities to meet the developing national standards. It is our hope that a comprehensive plan for treatment will be developed in line with the developing national standards and the experiences of other states. The enactment of a similar statute in other states has proven that a sound delivery system for services to alcoholics can be developed with a pattern that is considerably less expensive to the individual and to the taxpayers than is currently being experienced.

There is a body of knowledge around this particular area, particularly in the states of Minnesota, Arizona and Washington that is being utilized in the development of program activity in the other states.

A major issue in House Bill 909 is the voluntary commitment procedure for the alcoholic. It would be a civil rather than a criminal procedure under this Act. Voluntary commitment could be to any one of a number of programs that would be certified by the Department as private or public alcoholism treatment facilities. The person could also voluntarily admit himself or herself to the State Alcoholism Treatment Program at Galen State Hospital. Only in the case of an involuntary commitment would the person be committed to the custody of the Department of Institutions. As specified in the proposed law, the person would be admitted to the Galen State Hospital instead of Warm Springs. This admittance procedure has been discussed in detail with persons from the Department of Institutions and preliminary agreement has been reached on procedures for the admission, treatment and follow-up of the involuntarily committed person. The care and treatment of alcoholics in the communities of Montana is being handled by voluntary, non-profit corporations such as information and referral centers, half-way houses, in conjunction with Mental Health Centers and other service providers. These programs are in need of assistance in their fiscal planning and need upgrading if they are to meet the standards that are being imposed upon alcoholism program activity at the national level. This Act will assist us in being able to provide that help to these programs through contracts, grants, and other mechanisms.

The report entitled "Drug Use in America--Problem and Perspective" which was submitted to the President and to Congress in March of 1973, states: "the most widely used mood altering drug in America is alcohol".

I would totally recommend the adoption of a DO PASS recommendation on House Bill 909. Should there be any questions I would be happy to answer them.

ALCOHOLICS IN MONTANA

Estimates of the number of alcoholics in the general population vary between the several sources of information. Dr. Morris Chafetz, Director of the National Institute on Alcohol Abuse and Alcoholism, uses the figure of five per cent of the general population. This would indicate that there are some 34,720 alcoholics in Montana. He also indicates that the incidence of alcoholism among Indians varies from ten per cent to fifty per cent. Montana has seven Indian reservations that together constitute 4.2 per cent of the state population. A projected figure of Indian alcoholism in Montana would substantially increase the state total of alcoholic persons. The Social Research Group at George Washington University uses a figure of 8.15 per cent of the general population. This would show 56,663. They do not make special reference to Indians.

All of the indications of alcohol consumption, alcohol related accidents, and other indicators are apparently showing increases; for example, the per capita consumption in Montana is showing an annual increase and at that is only surpassed by three other states. As a result, the percentage of alcoholics in Montana would be substantially higher than the 8.15% figure used for the general population by the Social Research Group. Because of this, we have projected the 8.15% figure upward to 8.50% for planning purposes. This then gives the following estimates:

8.5% of population (except Indian) 57,902

50% of Indian population ...13,565

Total.....71,467

Ripple effect, others affected -- 285,868

PROJECTED NUMBER OF WELFARE CASES, WITH ALCOHOLISM PROBLEMS, BY NUMBER AND CATEGORY, MONTANA, NOVEMBER 1973

ESTIMATES DERIVED FROM SAMPLING OF 1970 & 1973 DATA

CATEGORY	NUMBER OF CASES (Estimated)	AMOUNT PER CASE (Dollars)	MONTHLY TOTAL (Dollars)	YEARLY TOTAL (Dollars)
Aid to Dependent Children	1100	145	159,500	1,914,000
Aid to the Blind	11	86	946	11,000
Old Age Assistance	110	61	6,710	80,000
Aid to the Disabled	480	94	45,120	541,000
			212,276	2,546,000

Source: Statistical Research Bureau, Montana Department of Social & Rehabilitation Services

ADDB/DHES 11/73

(Exhibit "C")

Testimony - HB 909

Ladies and Gentlemen:

The Rehabilitative Services Division (RSD) supports House Bill 909. If passed it will provide a needed and beneficial service, and more importantly, a quality service. Because we are and always have been a community based purchase of service agency, we utilize all alcoholic halfway houses and treatment centers.

It has been our experience in the past that institutionalization and/or incarceration is an impediment to the rehabilitation of the alcoholic. Such actions can only add to the problems of the alcoholic as well as create new ones under the right circumstances.

Treatment in community based facilities such as halfway houses and treatment centers is the first step in rehabilitation, and must be followed by a planned continuum of services once the client has been stabilized. We believe that these community based facilities are the only ones in the state that can presently provide the personnel and expertise demanded by this disability group.

However, limitations still exist. There are not enough halfway houses, treatment centers and staff in both to implement the services now needed and that will be needed with just the anticipated increase in the RSD's alcoholic caseload. From fiscal year 1972 to fiscal year 1973 the RSD alcoholic caseload increased from 260 to 1,035. To date this fiscal year, we have served approximately 770 alcoholics already and anticipate serving many more than the 1,035 from the previous fiscal year because of our newly gained responsibility to purchase treatment for alcoholics referred to us under the new Social Security Program, that of Supplemental Security Income.

Exhibit "D"

MONTANA STATE AFL-CIO
APRIL 29 1956

Box 1176, Helena, Montana

JAMES W. MURRY
EXECUTIVE SECRETARY

ZIP CODE 59601

405 NORTH LAST
CHANCE GULCH

March 8, 1974

Chairman Flynn, Members of the Public Health, Welfare and Safety Committee

My name is Harry L. Billings and I am Director of Education of the Montana State AFL-CIO. I appear in support of House Bill 909.

In the ranks of our membership, as in all other sectors of the population, there are many who are the tragic victims of alcoholism.

Realizing this, our 1973 delegate convention unanimously adopted a position of support of a program aimed at "the prevention, treatment, education and rehabilitation of the disease of alcoholism".

In addition, the convention asked that such a program be financed by "a portion of the tax revenue derived from the sale of alcoholic beverages".

We favor enactment of HB 909 with the provision for financing as approved by the House. We think that assessing a minute amount on alcoholic beverages and beer to either prevent, treat, educate or rehabilitate those who are victims of alcoholism, is a right and proper cost to be so placed.

The proposed tax is of such a minimal amount per drink that for anyone to oppose it on a cost basis is, to put it bluntly, "nitpicking". I would point out to the committee that the

cost per drink to finance the proposed program amounts to less than one third of a cent on socalled "bar" bourbons and scotches. Yet, that very infintisimal tax in the aggregate will make it possible to finance a program of great humanitarian value to our entire society.

HB 909 as passed by the House of Representatives, is in our estimation, good and long-overdue legislation. We strongly urge your concurrence.

Thank you.

ECONOMIC IMPACT OF HOUSE BILL 909 ON THE PRIVATE SECTOR OF THE LIQUOR INDUSTRY IN MONTANA

The following is a breakdown of proposed taxes to finance alcoholism treatment, rehabilitation, etc. program, on a per drink and per six-pack of beer basis:

Bar Bourbon (such as Barclays, Ten-High) cost per half gallon... $10.70. In one half gallon there are 43 full 1½-oz joggers. The tax on one-half gallon would amount to .107 cents. The cost of a drink would increase by ¼ of a cent! A bar would have to sell over nine one-half gallons of bar bourbon a day to have a tax outlay of $1.00...and believe you me, there's damn few bars which would have to put out that extra buck!

Scotch (Lauders price range) costs per half gallon....$13.05 Increased cost of full 1½-oz. jigger...1/3rd of a cent.

Beer: 25 cents on a 31 gallon keg, or .008 cents per gallon. There are 55 12-oz six-packs in 31 gallons of beer. Last time I got hooked, price for western beer per six-pack was $1.75 and up. Increased cost of a six-pack because of tax, less than one-half cent!

PRESENTED BY HARRY L. BILLINGS

RESOLUTION NO. 53

WHEREAS, alcohol is considered to be the largest single cause of highway deaths;

WHEREAS, this disease is believed to be the greatest factor in employee absenteeism,

WHEREAS, alcoholism is a progressive disease and unless arrested disables its victim and injures the victim's associates,

WHEREAS, it is deemed important that some portion of the revenue gained from the sale of alcoholic beverages be used for the prevention, treatment, education and rehabilitation of the disease of alcoholism,

BE IT RESOLVED, by the 17th Annual Convention of the Montana State AFL-CIO, that a portion of the tax revenue derived from the sale of alcoholic beverages should be designated for the prevention, treatment, education, and rehabilitation of the disease of alcoholism.

Submitted by the Executive Board

Moved, Seconded and carried
August 18, 1973

#15 909

(Exhibit "E")

We are not opposed to this bill but we are opposed to the method of financing it. We feel that alcoholism is not just an industry problem but a problem for our entire society. Alcoholics are sick people and we think it is fine something will be done for them but lets not put the entire load of financing on an industry that is already too much overtaxed.

We were considerably amused by the speakers who prefaced their remarks on this method of financing who said they didn't drink but felt those who did should foot the bill. They thought this was fine humanitarian legislation but evidently thought the bill not meritorious enough to warrant their paying their equal share of the cost.

It has been said that 15% of the people who drink are alcoholics. This figure has to be in error because nobody knows how many alcoholics there are. This is priviliged information between doctor and client. There are no reliable state statistics and there are no reliable federal statistics. It is just an un-educated guess. However, just for the sake of argument, lets accept the 15% figure. If true, this means that 85% of the people who drink are not alcoholics and this 85% is no more responsible for alcoholics than people that don't drink at all. Why then should these people bear the entire cost of this legislation.

It has also been said that as long as alcohol caused the problem...alcohol should pay for it. This sounds fine but if this concept of taxation is to prevail only those people who have children actually in attendance at schools should pay for the cost of our educational institutions. Only criminals should pay for law enforcement. Only those who have fires should pay for fire protection...and...while we are at it...only those who use drugs should pay for eliminating that traffic.

ALCOHOLISM IS A SOCIAL PROBLEM AND ALL OF SOCIETY SHOULD SHARE IN ANY COST WE INCUR. WE STRONGLY RECCOMEND THIS BILL BE FINANCED WITH A GENERAL FUND APPROPRIATION. or directly from liquor profits to which we have already added so much.

Curtis Lees
Yellowstone Tavern Assn
Billings

Other subjects which some people believe should be decriminal, are: marijuana, prostitution, gambling, various sexual deviations.

Herbert W. Titus

THE PERILS OF DECRIMINALIZATION

Herbert Titus is a professor of Law at the University of Oregon. The following paper was presented at the Center's second conference on Criminal Justice which was co-chaired by Norval Morris, Director, Center for Studies in Criminal Justice, University of Chicago Law School, and Robert M. Hutchins, Center Chairman. Center Visiting Fellow Rick J. Carlson was coordinator.

Decriminalization proposals may conveniently be separated into two groups: those accompanied by treatment alternatives and those not. In the latter group, proposals to decriminalize may or may not be coupled with a proposed regulatory scheme. Regardless, the goal of such proposals is to permit an activity, previously prohibited, to occur. In this group may be placed the proposals to eliminate the criminal sanction for gambling, prostitution, private adult sexual activity, obscenity, probably marijuana and some others. In the former group the purpose underlying the decriminalization proposal is markedly different. The goal is not to permit what has previously been prohibited but to seek a more effective means to prohibit that activity. Thus the accompanying treatment proposal is designed to eliminate the "underlying cause" of the problem. In this category may be placed the proposals to decriminalize public drunkenness, possession of hard drugs, and other like offenses.

Both types of decriminalization proposals pose serious problems of public policy. In this paper I focus on what I believe to be two major perils. The first one concerns only those decriminalization proposals linked to treatment alternatives. The second applies to all current decriminalization efforts.

The Peril of Mistaken Diagnosis

Proposals for treatment, as an alternative to the criminal sanction, range from the state-imposed to the state-offered program. Proponents of these decriminalization proposals are preoccupied with inventorying the differences between a treatment program and the criminal justice system. By doing so they ignore what I believe will prove to be a more crucial consideration: that the treatment alternative and the criminal justice system both embrace a government policy designed to solve a perceived societal ill by obtaining individual compliance with a *given* value system and by obtaining individual adaptation to a *given* social, political and economic condition.

Whatever the purpose or combination of purposes of the criminal law, punishment, deterrence or rehabilitation, the criminal justice system isolates the individual as the source of the problem. Only the methods of dealing with the individual differ. The traditionalist would admonish the law violator to shape-up; the behaviorist would shape him up. Whether or not moral judgment is passed, the remedy triggered by the state's use of the criminal sanction focuses *exclusively* upon the individual's failure to cope with a *given* value system and *given* economic, political or social conditions. The criminal justice system, then, inevitably is single-purposed: it seeks individual compliance with those givens.

The treatment programs, proposed as a substitute for the criminal justice system, do not depart from this theme. The solutions of an alcohol treatment or a drug rehabilitation program focus exclusively upon the task of helping the individual to deal with *his* or *her* problem so as to achieve reintegration into society. Again the society's *value* system and its economic, political and social conditions, although questioned, are not seriously challenged. Rather, they are accepted as inevitable and, thus, unreachable.

This common feature, that of isolating the individual to the exclusion of other sources of a societal ill, overrides whatever differences there may be between the criminal justice and the treatment models. This is so for one simple reason: those wielding government power will *inevitably* prefer solutions reinforcing their values, and reflecting their economic and social policies. Our constitutional architects, both state and federal, recognizing bias, constructed an inefficient criminal justice system. By providing for trial by jury, the privilege against self-incrimination and against unreasonable searches and seizures, the state's burden of proof beyond a reasonable doubt, and other procedural safeguards, the individual is theoretically protected from state overreaching. Equally important is the constitutional prohibition against cruel and unusual punishment that not only limits the types and extent of punishment that may be imposed but limits the power to use the criminal label. But the limits of the criminal sanction arise not only from constitutional commitments. Although there is the constitutional doctrine that a criminal statute is void for vagueness, the "common law" notions of *actus reus* and *mens rea* have served to limit the occasions for state intervention in the criminal justice system. Moreover, most criminal justice systems feature "maximum punishments" limiting the duration of the state's intrusion on an individual's liberty.

We have neither this detailed constitutional architecture nor this common law tradition to limit the treatment alternatives offered in exchange for decriminalization. The vague contours of the due process clause will most likely prove inadequate to the task of providing sufficient procedural protections. Indeed, the very success of the treatment alternative is posited upon substantial modification of the lawyer's cherished adversary system. The danger to individual liberty created by the state-imposed treatment alternatives is no less than that created by the criminal justice system. Rather, the danger of state overreach and overuse is greater. Since what will be done to human beings will be done to *help*, the limits on state power will be technological, not moral. (Moral limits will be largely self-imposed.) The most significant outside check is likely to be imposed by legislative underfinancing.

Unless seriously underfinanced,

Left to right:
Robert M. Hutchins,
Norval Morris,
Leon Leiberg

Left to right:
Victor Cizanckas,
Rick Carlson,
Robert J. Kutak

however, we may safely assume that the decriminalization proposals linked with state-imposed treatment programs will increase the occasions and the duration of government interferences with individual liberties. More important, they will increase the number and the duration of *unwarranted* interferences. This is so because those who wield power will seek solutions that pose the least threat to their power. The treatment programs offered in exchange for decriminalization are appealing because they pose no threat to the values embodied in the criminal code. Nor do they seriously threaten the social, economic and political conditions which serve to keep those in power firmly in charge.

Although it might be argued that these perils will be lessened if the treatment program is not state-imposed, one must be careful even with so-called voluntary treatment alternatives. While they may reduce the number of and duration of unwarranted interferences with individual liberty, they will not entirely eliminate them. An education program, for example, will provide the structure within which choices will be made. Again that kind of program will reflect a given set of values, moral, social, political and economic, and will focus on a goal of individual, not societal, change.

The danger then of decriminalization coupled with a treatment alternative, state-imposed or not, is that the diagnosis that underlay the crime to be eliminated, will not be subjected to critical analysis. I suggest it may be the diagnosis, not the treatment, that is the root of the problem. Unless we are sure that the diagnosis is correct we will be better off working within the criminal justice system rather than supporting a treatment program outside that system. Otherwise, those who want change unwittingly play into the hands of those who do not. For the treatment alternative will, I think, prove more efficient and more successful and thereby better reinforce a moral, social, political and economic system that, itself, should be changed.

The Peril of Distraction

One repeated argument favoring decriminalization is that it is desirable to either restore or to strengthen the credibility of the criminal justice system. Laws prohibiting private adult sexual activity, gambling, possession of marijuana, and prostitution, however honored by some, are breached by many. These breaches are due primarily to an increased skepticism about or an outright rejection of the moral values embraced by these laws. Also, the increase in numbers of violations, coupled with a low ranking on the list of law enforcement priorities, make for uneven, and thus discriminatory, enforcement. A crisis of credibility occurs because these marginal crimes, revealing chinks in the criminal justice system's moral armor, lead people to doubt the credibility of the moral justification for other crimes, e.g., shoplifting. This crisis is fueled, also, by the fact of uneven enforcement because it leads people to justify criminal conduct by the popular rationalization: it all depends upon whether you get caught. Although there is truth in both of these propositions, supporters of decriminalization efforts overlook other more serious threats to the credibility of the criminal justice system.

The more serious threat to the moral credibility of the criminal justice system comes, I believe, from our failure to reassess the moral hierarchy ranking the core, not the marginal, crimes. Killing of a human being by a government official on duty is considered by law less serious than a killing by one not a government official. The same goes for other activities, such as breaking and entering, pur-

suant to law enforcement and so-called "national security" efforts. Recent activities, ranging from the Ellsberg break-in to the federal narcotics agents' mistaken Illinois raid, illustrate the failure of legislatures and administrators to address themselves to the question of legal privileges so often invoked in the name of law enforcement or of national security. And when legislators do address themselves to these problems, for example the definition of a legal privilege afforded police officers to shoot people, the privilege given is expansive rather than limiting. Reassessment of the privileges afforded government officials to break the law is not just a matter of concern for civil libertarians, but also to those who seek to restore or to enhance the credibility of the criminal justice system. Uncontrolled government crime, now that it is becoming more visible, is a greater threat to that credibility than the enforcement of marginal crimes.

This threat does not come, however, solely from the excuses afforded to the government. It also arises from the FBI's perception of *serious* crime in America. What explanation for the omission of income tax evasion, antitrust violations and other "business" property crimes from that list? It also arises from Congress's perception of what crimes ought to be subject to the electronic surveillance investigations. Why is antitrust excluded? It also arises from a state legislature's embracing social gambling at home or at the Elks Club, but not bookmaking on NFL football or gambling at a local tavern. Paid sex in exchange for a marriage contract is okay, but paid sex without is not. What is at stake here is a reassessment of the moral hierarchy of crimes now embraced by the system and a reassessment of activities now excepted from and those included in the criminal code. What we have now is a hierarchy of crimes dictated more by what those in power are *not* tempted to do than by what poses the greater threat to the fabric of our democratic society.

Even in the enforcement of those laws against crimes that those in power *are* tempted to commit, there is a consistent pattern of more lenient treatment. Even though Spiro Agnew's activities may have cost the taxpayers of Maryland a bundle, he is given only a fine and probation. And that treatment is consistent with the sentence pattern for all income tax evaders. Judges, after all, understand the temptations to evade taxes. They understand the loss of Kiwanis Club esteem. Thus, they rationalize not sending Agnew and others to prison. Result: our jails are filled with those who have the least to lose, not with those who have the most to lose. And it is not just a question of sentencing disparity. It is also a problem of law enforcement priorities. Present allocations of money and personnel reflect the importance attached to the FBI crime index.

The perils of mistaken diagnosis and distraction are serious ones. I do not believe that they should lead to abandonment of decriminalization efforts. I do think, however, that they should lead to placing limits on those efforts where they are coupled with treatment alternatives. Equally important, I think they might be modified to help seek solutions to the crisis of credibility now facing the criminal justice system. ■

Participants: Conference on Criminal Justice

SYLVIA BACON, Judge, Superior Court, District of Columbia; PATRICK BIERNICKI, Scientific Analysis Corporation, San Francisco; EGON BITTNER, Professor, Department of Sociology, Brandeis University; GERALD M. CAPLAN, Professor, College of Law, Project on Law Enforcement, Policy and Rulemaking, Arizona State University, Tempe; SARAH CAREY, Associate Director, Lawyers' Committee for Civil Rights under Law; RICK CARLSON, Center Visiting Fellow; NILES CHRISTIE, Professor, Faculty of Law, *Universitet* No. 1, Oslo; VICTOR CIZANCKAS, Chief of Police, Menlo Park, California; JOHN P. CONRAD, Senior Fellow, The Academy for Contemporary Problems, Columbus, Ohio; THOMAS E. CRONIN, Center Visiting Fellow; RONALD M. DWORKIN, Professor, University College, Oxford; DAVID F. GREENBERG, Committee for the Study of Incarceration, Washington, D.C.; GEOFFREY HAZARD, Professor, The Law School, Yale University; EARL HOKENSON, Institute for Interdisciplinary Studies, Minneapolis; ROBERT M. HUTCHINS, Center Chairman; WAYNE KERSTETTER, Director, Illinois Bureau of Investigation, Chicago.

ROBERT J. KUTAK, Attorney, Kutak, Rock, Cohen, Campbell, Garfinkle and Woodward, Omaha; LEON LEIBERG, Project Director, Parole-Corrections-MDT Project, American Correctional Association, College Park, Maryland; BEN MEEKER, Assistant Director, Center for Studies in Criminal Justice, The Law School, University of Chicago; SHELDON L. MESSINGER, Chairman, Department of Criminology, University of California at Berkeley; JEROME MILLER, Director, Department of Children and Family Services, State of Illinois; NORVAL MORRIS, Professor, Director of the Center for Studies in Criminal Justice, The Law School, University of Chicago; PAUL NEJELSKI, Director, Institute of Judicial Administration, Inc., New York.

LLOYD OHLIN, Professor, College of Law, Harvard University; HAROLD PEPINSKY, Assistant Professor of Criminal Justice, State University of New York at Albany; MILTON R. RECTOR, President, National Council on Crime and Delinquency, New York City; LINDA R. SINGER, Center for Correctional Justice, Washington, D.C.; DANIEL SKOLAR, Director, Commission of Correctional Facilities and Services, American Bar Association, New York City; FAY STENDER, Prison Law Project, Oakland, California; HERBERT W. TITUS, Professor of Law, University of Oregon; GEORGE TRUBOW, Director, Office of Inspection and Review, Law Enforcement Assistance Administration, United States Department of Justice; HARVEY WHEELER, Center Senior Fellow, author, *Beyond the Punitive Society;* LESLIE WILKINS, Professor, School of Criminal Justice, State University of New York; FRANK ZIMRING, Professor, The Law School, Yale University.

Risken

STATEMENT OF UNITED STATES BREWERS ASSOCIATION, INC., IN OPPOSITION TO HB. 909.

Mr. Chairman, and members of the Committee. I am John H. Risken, an attorney with offices in Helena. I am a registered lobbyist for the United States Brewers Association, Inc., which organization is made up of brewers who manufacture approximately 85% of the beer sold in this country.

USBA is not opposed to the underlying reason behind this Bill. We do oppose that part of the Bill which has singled out the brewing industry for an additional tax to support whatever program might evolve from the passage of this legislation. The alcoholic beverage industry is already the most highly taxed and regulated industry in this country. In addition to State taxes, the brewing industry pays several more times those taxes to the Federal Government.

We do not feel that earmarking funds for special purposes is in the best interests of state government. In this case, the implication is present that the brewing industry, and other segments of the alcoholic beverage industry, are the responsible persons for the problem which is sought to be cured here.

Alcoholism is a health problem. Alcohol is an agent in this problem, but the cause of this health problem is more deep seated and not truly known. In accordance with Alcohol Problems: A Report to the Nation, by the Cooperative Committee on the study of Alcoholism which was commissioned by President Johnson, alcoholism is s health problem and it should involve all members of society; each element of society doing its proportionate share to educate, prevent and treat the unfortunate sick person. It further states that alcoholic patients and their problems should be recognized like other health problems, and they should fall within the scope of

of medical practice and hospitals should recognize it as a medical problem. The study further states that psychological and sociological facotrs are of major imprtance in the development and persistence of problem drinkers.

The taxes now imposed on this industry place many, many dollars in the State's general fund every year. We believe in bearing our fair share, and we believe that we are already doing more than that. A further tax would be unfair and inequitable.

Public financing should be from from general tax funds rather than special taxes on alcoholic beverages. This was expressed as far back as 1947 by Dr. Anton J. Carlson, then Chairman of the Research Council on Problems of Alcohol, when he told the 14th Meeting of the American Academy for the Advancement of Science:

> "General tax funds, which support other health activities, would seem, fron an administrative view, the soundest method of financing public legislation on problem drinking."

And, Dr. J.J. Hanlon of Temple University School of Medicine, in his book, "Principles of Public Health Administration", wrote:

> "The number of separate funds should be kept at a minimum, since a multiplicity of them serve effectively to hamper the development of broad, well-balanced programs. . . Special levies, as a whole, are undesirable. Much more preferable is a general levy adequate to cover all needs."

Alcoholism is a public health problem; liquor and beer are not. Alcohol is a necessary precondition for alcoholism. It is not a cause.

Speaking only of beer, there is ample evidence that beer is considered a beverage of moderation. A number of experts contend that beer is not an intoxicating beverage. It use

is generally associated with pursuits other than the act of drinking, activities more usually associated with fellowship, eating and recreation. Beer is a beverage selected not by inebriates, but mainly by moderate users of alcohol.

No one industry is singled out to pay for the cost of pollution; no one industry is singled out to pay for the cost of the highway patrol; no one industry is singled out to pay for the cost of crime or for the cost of education. And, we submit, no one industry should be singled out to pay for the cost of alcoholism.

JOHN H. RISKEN
415 Power Block
P.O. Box 225
Helena, Montana 59601

The League of Women Voters of Montana supports H.B. 909. Our positions in support of realizing the maximum potential of our human resources mandate this support. It is past time the State of Montana changed its outdated attitudes and joined the rest of the world in realizing that alcoholism is an illness, not a crime.

There are many good parts to this bill, including the listing of duties of the dept. of Health in Section 4, the directions for treatment provided in Section 5, and provisions of Section 7, 8 concerning acceptance for treatment. The bill requires co-operation ~~between~~ among agencies and private groups for a comprehensive program.

I feel that some parts of the bill might be left to the regulation of the Board of Health, but would not suggest the bill be killed for this reason.

~~The state~~ The kind of treatment program proposed by this legislation would enable a group of people not reaching their full potential due to the illness of alcoholism to obtain treatment and ~~perhaps~~ to improve their position. I urge your support of this bill.

~~Sandra Hanson~~

Gladys Elison, President

STATEMENT IN SUPPORT OF HB 909

I am Eva Spaulding, a former health and physical education teacher. Now, as a volunteer, I am chairman of the Board of the Alcoholism Rehabilitation Association of Southwestern Montana, which makes policy for the New Horizon Treatment Center, 1101 Missoula Ave., Helena and furnishes comprehensive alcoholism health care in a 12 county area.

We have all been concerned recently about our natural resources such as coal, oil and water and land. I hope you are equally concerned about the State's human resources, your fellow man.

The following are some of the reasons I see for passage of HB 909:

1. There are approximately 56,000 alcoholics in Montana (8% of the total population) who need treatment.

2. Each alcoholic affects the lives of five more persons (family, employers and employees) sometimes making it very miserable for them.

3. A bill which recently passed the United States Senate and House provides special grants to the states which have adopted the basic provisions of the Uniform Alcoholism and Intoxication Treatment Act to aid them in full implementation of the model act. Under this federal law Montana would receive $120,000 per year for three years if HB 909 passes.

4. There is a need for money to support the established private and public alcoholism programs, some of which are just beginning to rehabilitate the alcoholics in our state. A recovered alcoholic would become a producing and tax paying citizen. Then the State would gain as well as the former alcoholic, his family and his employer.

5. There is a need for money to educate and inform people of all ages, especially family members of alcoholics, about the disease of alcoholism.

The establishments selling alcoholic beverages would probably pass this small tax on to the consumer, consequently the former should not be against the bill. The proposed tax on liquor and beer is so small it probably would not be noticed by those purchasing the alcoholic beverages in this time of rising prices on food etc.

I believe that each and everyone of you knows a man or women who needs care for a drinking problem and whose family could benefit from the type of alcoholism counseling, that could be made available with more money in alcoholism programs in our State.

Thank you.

COMMUNITY HEALTH SERVICES FOR ALCOHOLISM
ALCOHOLISM SERVICE CENTER
603 West Porphyry
Butte, Montana 59701

March 7, 1974

Elmer Flynn
State Senator
Capitol Building
Helena, MT 59601

Honerable Senator:

As Executive Director of the C.H.S.F.A. and a citizen of Montana, I urge your support and due consideration of the Uniform Alcoholism Act; House Bill #909, as amended from the House of Representatives, enlcusive of the Taxation portion.

The implementation of this act, will support and create the viable trust needed to service the Alcohol abusing, and non-addicted population of Montana.

The physically addicted population with the ripple effect (1 alcoholic effecting 7 persons) causes undue hardships on all ages and walks of life of the population of this State that can be effectively combated through implementation of this act.

Again, I urge your support.

Sincerely,

Jack W. Charlson

Jack W. Charlson
Executive Director
C.H.S.F.A.

Herbert J. Bauer

Comments in Defense

of

House Bill #909

UNIFORM ALCOHOLISM ACT

IN DEFENSE OF HOUSE HILL #909

As long as alcohol is a legal drug, every community can be considered a factory turning out alcoholics, and the social problems that go hand-in-hand with alcoholism.

I'm Herb Bauer. I am a recovered alcoholic, and I am also Director of Hill-Top Recovery, a community alcoholism program that covers Toole, Liberty, Hill and Blaine counties. Myself and others in the field have spent many years pushing for the type of legislation that is written into House Bill 909. We have long felt that alcoholism should be decriminalized. By the time a person has reached the stage that he is being thrown in jail for drunkenness, he could usually care less. I myself have been through that stage in my alcoholism, so jail, I feel, is really not a deterrent, and merely becomes a revolving door situation that does not allow for intervention into the alcoholic life style.

House Bill 909 presents an alternative course to jailing the intoxicated person which leads them to knowledge and understanding about treatment and rehabilitation and a clear way for the alcoholic to lead a normal, productive life.

Those of us who have chosen this field as a profession have long awaited legislation that would initiate preventative measures, a few of which are listed below:

1. Provide for establishment of programs for persons in, or on parole from, penal institutions which could be effective in attaining their complete rehabilitation.

2. Cooperation in establishing educational programs at many levels aimed at prevention of alcoholism. Preventative measures are rapidly paying for themselves in saving treatment costs and, of course, if just one person is prevented from becoming an alcoholic, multiple social and physical problems are avoided and so are multiple social services for that individual.

House Bill 909 will enable us to do this. We've long felt the need for cooperative measures with the Department of Justice in establishing measures to deal with the problem of driving while intoxicated, which, I'm sure, we all realize the importance of. House Bill 909 would do this. Alcoholism being a community problem, we feel it should be treated within the community in which it exists. House Bill 909 will allow us to do this by setting up treatment situations and provisions for standards for those facilities and the personnel that staff them.

There is now, as I understand, some 24 different alcoholism treatment programs throughout the state with little or no control of treatment procedures or staff standards. Those of us who have been in the field for some years see some real dangers in this present situation. House Bill 909 would set up standards which would protect the alcoholic now being treated in these programs. This will take more funding than there is now available at community level. Many of these programs have trained, dedicated personnel, but because of low funding and low priority for alcoholic treatment in the past few years, we are in danger of losing the few professionals we now have in the state to other states which have adopted the Uniform Alcoholism Act. As quickly as we can get a person trained we are losing them to states like Washington, that have not only passed the Uniform Alcoholism Act, but have passed it with funding to make it workable.

This state needs these funds to provide the broad range of emergency, out-patient, intermediate, and in-patient services and care, including diagnostic evaluation, medical, psychiatric, psychological, and social service care, vocational rehabilitation, and career counseling, which should be extended to alcoholics and their families.

I think our representatives, both in the House and the Senate know by now that the majority of the public is behind them, by the hundreds of letters and phone calls they received while this bill was in the House. Those of us in the field of alcoholism will be forever indebted to this legislative body if this bill is passed into law. Thank you

ORAL PRESENTATION

TO

SENATE COMMITTEE ON HEALTH, WELFARE AND SAFETY

BY

LES STEVENSON

REPRESENTING

NORTH CENTRAL HEALTH PLANNING COUNCIL

OF

MONTANA COMPREHENSIVE HEALTH PLANNING DISTRICT II

Mr. Chairman and Committee Members:

I am Les Stevenson, Health Planner for North Central Montana Health Planning Council, Which serves the twelve county area of Comprehensive Health Planning District II.

I am here to request that this committee take prompt and positive action on House Bill 909 and that it be supported by the full Senate.

In the interest of conserving your valuable time and allowing for additional presentations and discussion I wish to be brief in presenting the following points for your information and consideration.

1. Comprehensive Health Planning recognizes that alcohol abuse and alcoholism is a major health problem which has long been, to a large degree, neglected.

2. In July 1973, the North Central Montana Health Planning Council undertook the responsibility to assess the needs and problems relevant to alcohol abuse and alcoholism in its twelve county area.

   In January 1974, the Executive Committee did adopt a plan for the prevention, treatment and rehabilitation of alcohol abuse and alcoholism within the twelve county area. The Executive Committee's action was ratified by the area wide Board of Directors at their quarterly meeting on February 27, 1974.

3. The plan of action adopted by the North Central Montana Health Planning Council is consistant with the proposed Uniform Alcoholism Act, H.B. 909, and the philosophy of the National Institute on Alcohol Abuse and Alcoholism. In fact, the plan addresses itself to the need for a Uniform Alcoholism Act.

4. The Uniform Alcoholism Act, H.B. 909, if adopted with adequate revenue appropriations, would be the primary implement for the implementation of the adopted plan of action for North Central Montana.

5. I call your attention to the following letter which was mailed to each member of this committee plus the Senators representing North Central Montana.

   Dear Senator:

   While in session at their quarterly meeting, February 27, 1974, with a quorm present, the Board of Directors of North Central Montana Health Planning Council of Comprehensive

Health Planning District II, following discussion of H.B. 909, did adopt the following:

BE IT RESOLVED that the North Central Montana Health Planning Coucil support the principle of utilizing funds derived from the sale of alcohol beverages for the prevention, treatment and rehabilitation of alcoholism and alcohol abuse.

Signed by Levi Taft, Executive Director.

I do wish to point out to this committee that the Board of Directors of North Central Montana Health Planning Council, is made up of a very valid cross representation of the twelve counties involved. But, basically the Board of Directors consists of County Commissioners, health service providers and health service consumers.

In closing I wish to express my appreciation for the opportunity to appear before this committee. Time does not allow nor do I command the vocabulary to fully express my personal interest and desire for passage of this valuable legislative act. I do trust in your ability to arrive at a valid decision after all the facts are presented and evaluated.

Thank you.

State of Montana
Office of The Governor
Helena 59601

THOMAS L. JUDGE
GOVERNOR

February 19, 1974

The Honorable Larry Fasbender
House Majority Leader
State House of Representatives
State Capitol
Helena, Montana 59601

Dear Larry:

As you will recall, my State of the State message contained the following statement, "I support the concept of utilizing a portion of the profits from the state liquor monopoly to improve rehabilitation services for alcoholics." I continue my support of this concept. There are two points that should be taken into consideration in developing this legislation. First, I am opposed to further proliferation of earmarked revenue accounts and would resist legislation which created a special account. Second, it is my position that we must maintain the fiscal balance presented in my budget message. Therefore, I would consider a proposal which matched program expenditures with unobligated or new general fund resources.

If you desire any additional information or if you have any questions, please feel free to contact my office or any of my staff.

Sincerely,

THOMAS L. JUDGE
Governor

PRINTED ON RECYCLED PAPER

DATE 3/8/74

COMMITTEE ON Public Health BILL NO. SRGS HSRG7 HJR47 HB909 HB1066 - 360

VISITOR'S REGISTER

NAME	REPRESENTING	BILL NO	Check One: Support	Oppos
Evan Spaulding	APA of South West Montana	HB 909	✓	
Jean Stanniland	Helena Indian Alliance	HB909	✓	
Frank R. Bennett	Montana Assn for Social Concern & Montana Dept. of Social & Rehabilitation Serv.	H.B 909 H.J.R 47 H.J.R 67	✓	
FRANK R SMOYER	G. O. C.	HB1066	✓	
Robert L Solomon	Dept of Health & Env. Sciences	HB 909	✓	
Margaret Redecke	Rehabilitation Services Division Social & Rehab Services	HB909	✓	
John Anderson	Health & Env Sci.	HB09	✓	
Ed Kelner	Mont. Dental Assn	HB909	✓	
A Rickard	Montana JAYCEES	HB909	✓	
Peter W. Sandilos	Montana Chapter of the National Ass. of Social Workers & SRS	HB 909 HJR 47	✓	
Les Stevenson	North Central Mont Hospital Planning Commission Health Dist II	HB909	✓	
Paul Davis	Rocky Mtn Laboratories Provincial Laboratory	HB-909	✓	
Herb Bauer	Hill Top Recovery HAVRE MONT	HB-909	✓	
Vic Brownley	Opportunity Inc. Ft Ellis Mt	HB-909	✓	
Pat Melby	Government Operation	H.B. 1066	✓	
Max Bennett	Missoula	HB 1066		

(Please leave prepared statement with Secretary)

the use of teams or vehicles whether by accident or collision or by explosion of any engine or tank or boiler or pipe or tire of any vehicle, and also including insurance against theft of the whole or any part of any vehicle."

Approved March 25, 1974

CHAPTER NO. 302

AN ACT ADOPTING CERTAIN PROVISIONS OF THE UNIFORM ALCOHOLISM AND INTOXICATION ACT, INCREASING THE TAX ON ALCOHOLIC BEVERAGES TO CREATE A FUND FOR THE PROGRAMS AUTHORIZED BY THIS ACT, AMENDING SECTIONS 4-201, 4-240, 4-324, 11-927, AND 94-8-105, R.C.M. 1947, AND REPEALING SECTIONS 4-164 AND 69-6202, R.C.M. 1947.

Be it enacted by the Legislature of the State of Montana:

Section 1. There is a new section to be numbered 69-6211, R.C.M. 1947, which reads as follows:

69-6211. **Declaration of policy.** It is the policy of the state of Montana to recognize alcoholism as an illness and that alcoholics and intoxicated persons may not be subjected to criminal prosecution because of their consumption of alcoholic beverages but rather should be afforded a continuum of treatment in order that they may lead normal lives as productive members of society.

Section 2. There is a new section to be numbered 69-6212, R.C.M. 1947, which reads as follows:

69-6212. **Definitions.** For purposes of this act:

(1) "alcoholic" means a person who habitually lacks self-control as to the use of alcoholic beverages, or uses alcoholic beverages to the extent that his health is substantially impaired or endangered or his social or economic function is substantially disrupted;

(2) "approved private treatment facility" means a private agency meeting the standards prescribed in section 69-6216(1) and approved under section 69-6216;

(3) "approved public treatment facility" means a treatment agency operating under the direction and control of the department or providing treatment under this act through a contract with the department and approved under section 69-6216;

(4) "department" means the department of health and environmental sciences provided for in section 82A-601, R.C.M. 1947;

(5) "incapacitated by alcohol" means that a person, as a result of the use of alcohol, is unconscious or has his judgment otherwise so impaired

that he is incapable of realizing and making a rational decision with respect to his need for treatment;

(6) "incompetent person" means a person who has been adjudged incompetent by the district court;

(7) "intoxicated person" means a person whose mental or physical functioning is substantially impaired as a result of the use of alcohol;

(8) "treatment" means the broad range of emergency, outpatient, intermediate, and inpatient services and care, including diagnostic evaluation, medical, psychiatric, psychological, and social service care, vocational rehabilitation and career counseling, which may be extended to alcoholics and intoxicated persons.

Section 3. There is a new section to be numbered 69-6213, R.C.M. 1947, which reads as follows:

69-6213. **Powers of department.** The department may:

(1) plan, establish, and maintain treatment programs as necessary or desirable;

(2) coordinate its activities and cooperate with alcoholism programs in this and other states, and make contracts and other joint or cooperative arrangements with state, local, or private agencies in this and other states for the treatment of alcoholics and intoxicated persons and for the common advancement of alcoholism programs;

(3) do other acts and things necessary or convenient to execute the authority expressly granted to it; and

(4) provide treatment facilities for alcoholics and intoxicated persons.

Section 4. There is a new section to be numbered 69-6214, R.C.M. 1947, which reads as follows:

69-6214. **Duties of department.** The department shall:

(1) develop, encourage, and foster statewide, regional, and local plans and programs for the prevention of alcoholism and treatment of alcoholics and intoxicated persons in cooperation with public and private agencies, organizations, and individuals and provide technical assistance and consultation services for these purposes;

(2) coordinate the efforts and enlist the assistance of all public and private agencies, organizations, and individuals interested in prevention of alcoholism and treatment of alcoholics and intoxicated persons;

(3) cooperate with the department of institutions and board of pardons in establishing and conducting programs to provide treatment for alcoholics and intoxicated persons in or on parole from penal institutions;

(4) cooperate with the department of education, the superintendent of public instruction, schools, police departments, courts, and other public and private agencies, organizations and individuals in establishing programs for the prevention of alcoholism and treatment of alcoholics and intoxicated persons, and preparing curriculum materials thereon for use at all levels of education;

(5) prepare, publish, evaluate, and disseminate educational material dealing with the nature and effects of alcohol;

(6) develop and implement, as an integral part of treatment programs, an educational program for use in the treatment of alcoholics and intoxicated persons, which program shall include the dissemination of information concerning the nature and effects of alcohol;

(7) organize and foster training programs for all persons engaged in treatment of alcoholics and intoxicated persons;

(8) sponsor and encourage research into the causes and nature of alcoholism and treatment of alcoholics and intoxicated persons, and serve as a clearing house for information relating to alcoholism;

(9) specify uniform methods for keeping statistical information by public and private agencies, organizations, and individuals, and collect and make available relevant statistical information, including number of persons treated, frequency of admission and readmission, and frequency and duration of treatment;

(10) advise the governor in the preparation of a comprehensive plan for treatment of alcoholics and intoxicated persons for inclusion in the state's comprehensive health plan;

(11) review all state health, welfare, and treatment plans to be submitted for federal funding under federal legislation, and advise the governor on provisions to be included relating to alcoholism and intoxicated persons;

(12) assist in the development of, and cooperate with, alcohol education and treatment programs for employees of state and local governments and businesses and industries in the state;

(13) utilize the support and assistance of interested persons in the community, particularly recovered alcoholics, to encourage alcoholics voluntarily to undergo treatment;

(14) cooperate with the department of justice in establishing and conducting programs designed to deal with the problem of persons operating motor vehicles while intoxicated;

(15) encourage general hospitals and other appropriate health facilities to admit without discrimination alcoholics and intoxicated persons and to provide them with adequate and appropriate treatment;

(16) encourage all health and disability insurance programs to include alcoholism as a covered illness; and

(17) submit to the governor an annual report covering the activities of the department.

Section 5. There is a new section to be numbered 69-6215, R.C.M. 1947, which reads as follows:

69-6215. **Comprehensive program for treatment.** (1) The department shall establish a comprehensive and coordinated program for the treatment of alcoholics and intoxicated persons.

(2) The program shall include:

(a) emergency treatment provided by a facility affiliated with or part of the medical service of a general hospital;

(b) inpatient treatment;

(c) intermediate treatment; and

(d) outpatient and followup treatment.

(3) The department shall provide for adequate and appropriate treatment for alcoholics and intoxicated persons admitted under sections 69-6218 to 69-6221. Treatment may not be provided at a correctional institution except for inmates.

(4) All appropriate public and private resources shall be coordinated with and utilized in the program if possible.

(5) The department shall prepare, publish, and distribute annually a list of all approved public and private treatment facilities.

Section 6. There is a new section to be numbered 69-6216, R.C.M. 1947, which reads as follows:

69-6216. **Facility standards — inspections — approvals.** (1) The department shall establish standards for approved treatment facilities that must be met for a treatment facility to be approved as a public or private treatment facility, and fix the fees to be charged for the required inspections. The standards may concern only the health standards to be met and standards of treatment to be afforded patients.

(2) The department periodically shall inspect approved public and private treatment facilities at reasonable times and in a reasonable manner.

(3) The department shall maintain a list of approved public and private treatment facilities.

(4) Each approved public and private treatment facility shall file with the department on request, data, statistics, schedules, and information the department reasonably requires. An approved public or private treatment facility that without good cause fails to furnish any data, statistics, schedules, or information as requested, or files fraudulent returns thereof, shall be removed from the list of approved treatment facilities.

(5) The department, after holding a hearing in accordance with the Administrative Procedure Act, may suspend, revoke, limit, or restrict an approval, or refuse to grant an approval, for failure to meet its standards.

(6) A district court may restrain any violation of this section, review any denial, restriction, or revocation of approval, and grant other relief required to enforce its provisions.

(7) Upon petition of the department and after a hearing held upon reasonable notice to the facility, a district court may issue a warrant to the department authorizing it to enter and inspect at reasonable times, and examine the books and accounts of, any approved public or private treatment facility refusing to consent to inspection or examination by the department or which the department has reasonable cause to believe is operating in violation of this act.

Section 7. There is a new section to be numbered 62-6217, R.C.M. 1947, which reads as follows:

62-6217. **Acceptance for treatment; rules.** The department shall adopt rules for acceptance of persons into the treatment program, considering available treatment resources and facilities, for the purpose of early and effective treatment of alcoholics and intoxicated persons. In adopting the rules the department shall be guided by the following standards:

(1) If possible a patient shall be treated on a voluntary rather than an involuntary basis.

(2) A patient shall be initially assigned or transferred to outpatient or intermediate treatment, unless he is found to require inpatient treatment.

(3) A person shall not be denied treatment solely because he has withdrawn from treatment against medical advice on a prior occasion or because he has relapsed after earlier treatment.

(4) An individualized treatment plan shall be prepared and maintained on a current basis for each patient.

(5) Provision shall be made for a continuum of coordinated treatment services, so that a person who leaves a facility or a form of treatment will have available and utilize other appropriate treatment.

Section 8. There is a new section to be numbered 62-6218, R.C.M. 1947, which reads as follows:

62-6218. **Voluntary treatment of alcoholics.** (1) An alcoholic may apply for voluntary treatment directly to an approved public treatment facility. If the proposed patient is a minor or an incompetent person, he, a parent, a legal guardian, or other legal representative may make the application.

(2) Subject to rules adopted by the department, the administrator of an approved public treatment facility may determine who shall be admitted for treatment. If a person is refused admission to an approved public treatment facility, the administrator, subject to departmental rules, shall refer the person to another approved public treatment facility for treatment if possible and appropriate.

(3) If a patient receiving inpatient care leaves an approved public treatment facility, he shall be encouraged to consent to appropriate outpatient or intermediate treatment. If it appears to the administrator of the treatment facility that the patient is an alcoholic who requires help, the department shall arrange for assistance in obtaining supportive services and residential facilities.

(4) If a patient leaves an approved public treatment facility, with or against the advice of the administrator of the facility, the department shall make reasonable provisions for his transportation to another facility or to his home. If he has no home he shall be assisted in obtaining shelter. If he is a minor or an incompetent person the request for discharge from an inpatient facility shall be made by a parent, legal guardian, or other

legal representative or by the minor or incompetent if he was the original applicant.

Section 9. There is a new section to be numbered 62-6219, R.C.M. 1947, which reads as follows:

62-6219. **Treatment and services for intoxicated persons and persons incapacitated by alcohol.** (1) An intoxicated person may come voluntarily to an approved public treatment facility for emergency treatment. A person who appears to be intoxicated in a public place and to be in need of help, if he consents to the proffered help, may be assisted to his home, an approved public treatment facility, an approved private treatment facility, or other health facility by the police.

(2) A person who appears to be incapacitated by alcohol shall be taken into protective custody by the police and forthwith brought to an approved public treatment facility for emergency treatment. If no approved public treatment facility is readily available he shall be taken to an emergency medical service customarily used for incapacitated persons. The police, in detaining the person and in taking him to an approved public treatment facility, is taking him into protective custody and shall make every reasonable effort to protect his health and safety. In taking the person into protective custody, the detaining officer may take reasonable steps to protect himself. No entry or other record may be made to indicate that the person taken into custody under this section has been arrested or charged with a crime.

(3) A person who comes voluntarily or is brought to an approved public treatment facility shall be examined by a licensed physician as soon as possible. He may then be admitted as a patient or referred to another health facility. The referring approved public treatment facility shall arrange for his transportation.

(4) A person who by medical examination is found to be incapacitated by alcohol at the time of his admission or to have become incapacitated at any time after his admission, may not be detained at the facility (1) once he is no longer incapacitated by alcohol, or (2) if he remains incapacitated by alcohol for more than forty-eight (48) hours after admission as a patient, unless he is committed under section 69-6220. A person may consent to remain in the facility as long as the physician in charge believes appropriate.

(5) A person who is not admitted to an approved public treatment facility and is not referred to another health facility, may be taken to his home. If he has no home, the approved public treatment facility shall assist him in obtaining shelter.

(6) If a patient is admitted to an approved public treatment facility, his family or next of kin shall be notified as promptly as possible. If an adult patient who is not incapacitated requests that there be no notification, his request shall be respected.

Section 10. There is a new section to be numbered 69-6220, R.C.M. 1947, which reads as follows:

69-6220. **Emergency commitment.** (1) An intoxicated person who (a)

has threatened, attempted, or inflicted physical harm on another and is likely to inflict physical harm on another unless committed, or (b) is incapacitated by alcohol, may be committed to an approved public treatment facility for emergency treatment. A refusal to undergo treatment does not constitute evidence of lack of judgment as to the need for treatment.

(2) The certifying physician, spouse, guardian, or relative of the person to be committed, or any other responsible person, may make a written application for commitment under this section, directed to the administrator of the approved public treatment facility. The application shall state facts to support the need for emergency treatment and be accompanied by a physician's certificate stating that he has examined the person sought to be committed within two (2) days before the certificate's date and facts supporting the need for emergency treatment. A physician employed by the admitting facility or the department is not eligible to be the certifying physician.

(3) Upon approval of the application by the administrator of the approved public treatment facility, the person shall be brought to the facility by a peace officer, health officer, the applicant for commitment, the patient's spouse, the patient's guardian, or any other interested person. The person shall be retained at the facility to which he was admitted, or transferred to another appropriate public or private treatment facility, until discharged under subsection (5).

(4) The administrator of an approved public treatment facility shall refuse an application if in his opinion the application and certificate fail to sustain the grounds for commitment.

(5) When on the advice of the medical staff the administrator determines that the grounds for commitment no longer exist, he shall discharge a person committed under this section. No person committed under this section may be detained in any treatment facility for more than five (5) days. If a petition for involuntary commitment under section 69-6221 has been filed within the five (5) days and the administrator in charge of an approved public treatment facility finds that grounds for emergency commitment still exist, he may detain the person until the petition has been heard and determined, but no longer than ten (10) days after filing the petition.

(6) A copy of the written application for commitment and of the physician's certificate, and a written explanation of the person's right to counsel, shall be given to the person within twenty-four (24) hours after commitment by the department, who shall provide a reasonable opportunity for the person to consult counsel.

Section 11. There is a new section to be numbered 69-6221, R.C.M. 1947, which reads as follows:

69-6221. **Involuntary commitment of alcoholics.** (1) A person may be committed to the custody of the department of institutions by the district court upon the petition of his spouse or guardian, a relative, the certifying physician, or the chief of any approved public treatment facility. The petition shall allege that the person is an alcoholic who habitually lacks self-control as to the use of alcoholic beverages and that he (a) has

threatened, attempted, or inflicted physical harm on another and that unless committed is likely to inflict physical harm on another; or (b) is incapacitated by alcohol. A refusal to undergo treatment does not constitute evidence of lack of judgment as to the need for treatment. The petition shall be accompanied by a certificate of a licensed physician who has examined the person within two (2) days before submission of the petition, unless the person whose commitment is sought has refused to submit to a medical examination, in which case the fact of refusal shall be alleged in the petition. The certificate shall set forth the physician's findings in support of the allegations of the petition. A physician employed by the admitting facility or the department is not eligible to be the certifying physician.

(2) Upon filing the petition, the court shall fix a date for a hearing no later than ten (10) days after the date the petition was filed. A copy of the petition and of the notice of the hearing, including the date fixed by the court, shall be served on the petitioner, the person whose commitment is sought, his next of kin other than the petitioner, a parent or his legal guardian if he is a minor, the administrator in charge of the approved public treatment facility to which he has been committed for emergency care, and any other person the court believes advisable. A copy of the petition and certificate shall be delivered to each person notified.

(3) At the hearing the court shall hear all relevant testimony, including, if possible, the testimony of at least one licensed physician who has examined the person whose commitment is sought. The person shall have a right to have a licensed physician of his own choosing examine him and testify on his behalf, and if he has no funds with which to pay such physician, the reasonable costs of one such examination and testimony shall be paid by the county. The person shall be present unless the court believes that his presence is likely to be injurious to him; he shall be advised of his right to counsel and, if he is unable to hire his own counsel, the court shall appoint an attorney to represent him at the expense of the county. The court shall examine the person in open court, or if advisable, shall examine the person in chambers. If he refuses an examination by a licensed physician and there is sufficient evidence to believe that the allegations of the petition are true, or if the court believes that more medical evidence is necessary, the court may make a temporary order committing him to the department of institutions for a period of not more than five (5) days for purposes of a diagnostic examination.

(4) If after hearing all relevant evidence, including the results of any diagnostic examination by the department of institutions, the court finds that grounds for involuntary commitment have been established by clear and convincing evidence, it shall make an order of commitment to the department of institutions. It may not order commitment of a person unless it determines that the department of institutions is able to provide adequate and appropriate treatment for him and the treatment is likely to be beneficial.

(5) A person committed under this section shall remain in the custody of the department of institutions for treatment for a period of thirty (30) days unless sooner discharged. At the end of the thirty (30) day period, he shall be discharged automatically unless the department of institutions

before expiration of the period obtains a court order from the district court of the committing district for his recommitment upon the grounds set forth in subsection (1) for a further period of ninety (90) days unless sooner discharged. If a person has been committed because he is an alcoholic likely to inflict physical harm on another, the department of institutions shall apply for recommitment if after examination it is determined that the likelihood still exists.

(6) A person recommitted under subsection (5) who has not been discharged by the department of institutions before the end of the ninety (90) day period shall be discharged at the expiration of that period unless the department of institutions, before expiration of the period, obtains a court order from the district court of the committing district on the grounds set forth in subsection (1) for recommitment for a further period not to exceed ninety (90) days. If a person has been committed because he is an alcoholic likely to inflict physical harm on another, the department shall apply for recommitment if after examination it is determined that the likelihood still exists. Only two (2) recommitment orders under subsections (5) and (6) are permitted.

(7) Upon the filing of a petition for recommitment under subsections (5) or (6), the court shall fix a date for hearing no later than ten (10) days after the date the petition was filed. A copy of the petition and of the notice of hearing, including the date fixed by the court, shall be served on the petitioner, the person whose commitment is sought, his next of kin other than the petitioner, the original petitioner under subsection (1) if different from the petitioner for recommitment, one of his parents or his legal guardian if he is a minor, and any other person the court believes advisable. At the hearing the court shall proceed as provided in subsection (3).

(8) A person committed to the custody of the department of institutions for treatment shall be discharged at any time before the end of the period for which he has been committed if either of the following conditions is met:

(a) in case of an alcoholic committed on the grounds of likelihood of infliction of physical harm upon another, that he is no longer in need of treatment or the likelihood no longer exists; or

(b) in case of an alcoholic committed on the grounds of the need of treatment and incapacity, that the incapacity no longer exists, further treatment will not be likely to bring about significant improvement in the person's condition, or treatment is no longer adequate or appropriate.

(9) The court shall inform the person whose commitment or recommitment is sought of his right to contest the application, be represented by counsel at every stage of any proceedings relating to his commitment and recommitment, and have counsel appointed by the court or provided by the court, if he wants the assistance of counsel and is unable to obtain counsel. If the court believes that the person needs the assistance of counsel, the court shall require, by appointment if necessary, counsel for him regardless of his wishes. The person whose commitment or recommitment is sought shall be informed of his right to be examined

by a licensed physician of his choice. If the person is unable to obtain a licensed physician and requests examination by a physician, the court shall employ a licensed physician.

(10) If a private treatment facility agrees with the request of a competent patient or his parent, sibling, adult child, or guardian to accept the patient for treatment, the department of institutions may transfer him to the private treatment facility.

(11) A person committed under this section may at any time seek to be discharged from commitment by writ of habeas corpus or other appropriate means.

(12) The venue for proceedings under this section is the place in which person to be committed resides or is present.

Section 12. There is a new section to be numbered 69-6222, R.C.M. 1947, which reads as follows:

69-6222. **Records of alcoholics and intoxicated persons.** (1) The registration and other records of treatment facilities shall remain confidential and are privileged to the patient.

(2) Notwithstanding subsection (1), the department may make available information from patients' records for purposes of research into the causes and treatment of alcoholism. Information under this subsection shall not be published in a way that discloses patients' names or other identifying information.

Section 13. There is a new section to be numbered 69-6223, R.C.M. 1947, which reads as follows:

69-6223. **Visitation and communication of patients.** (1) Subject to reasonable rules regarding hours of visitation which the department may adopt, patients in any approved treatment facility shall be granted opportunities for adequate consultation with counsel, and for continuing contact with family and friends consistent with an effective treatment program.

(2) Neither mail nor other communication to or from a patient in any approved treatment facility may be intercepted, read, or censored. The administrator may adopt reasonable rules regarding the use of telephone by patients in approved treatment facilities.

Section 14. There is a new section to be numbered 69-6224, R.C.M. 1947, which reads as follows:

69-6224. **Application of Administrative Procedure Act.** The Administrative Procedure Act applies to and governs all administrative actions taken under this act.

Section 15. Section 4-201, R.C.M. 1947, is amended to read as follows:

"4-201. **Interdiction — order of — effect.** (1) *Where it appears to the satisfaction of a district court that an individual lacks self-control as to the use of alcoholic beverages, or uses alcoholic beverages to the extent that his health is substantially impaired or endangered or his social or economic function is substantially disrupted,* the court may make an order

of interdiction prohibiting the sale of liquor to him until further order; and the court shall cause the order to be forthwith filed with the *department of revenue.*

(2) *On* the making of an order for interdiction the interdicted person may forthwith deliver to the *department* all liquor then in his possession or under his control to be kept for him by the board until the order of interdiction is revoked or set aside, or to be purchased by the *department* at a price to be fixed by it. *All liquor not delivered to the department under this subsection may be confiscated and forfeited to the state."*

Section 16. Section 11-927, R.C.M. 1947, is amended to read as follows:

"11-927. **Prevention of and punishment for disturbing the peace.** The city or town council has power: To prevent and punish intoxication *(subject to the limits established in section 69-6224)*, fights, riots, loud noises, disorderly conduct, obscenity, and acts or conduct calculated to disturb the public peace, or which are offensive to public morals, within the city or town, and within three miles of the limits thereof."

Section 17. Section 4-240, R.C.M. 1947, is amended to read as follows:

"4-240. **License tax on liquor — amount — distribution of proceeds.** The *department of revenue* is hereby authorized and directed to charge, receive and collect at the time of sale and delivery of any liquor under any provisions of the laws of the state of Montana a license tax of *five percent (5%)* of the retail selling price on all liquor so sold and delivered. Said tax shall be charged and collected on all liquor brought into the state and taxed by the *department of revenue.* The retail selling price shall be computed by adding to the cost of said liquor the state markup as designated by said board. Said *five percent (5%)* license tax shall be figured in the same manner as the state excise tax and shall be in addition to said state excise tax. The *department of revenue* shall retain the amount of such *five percent (5%)* license tax so received in a separate account. *Four-fifths (4/5) of these revenues shall be distributed to the counties according to the amount of liquor purchased in each county. One-fifth (1/5) of these revenues shall be deposited in the general fund.* Provided, however, in the case of purchases of liquor by a retail liquor licensee for use in his business, the *department* shall make such regulations as are necessary to apportion that proportion of license tax so generated to the county where the licensed establishment is located, for use as provided in section 4-241, R.C.M. 1947. The *department of revenue* shall pay quarterly to each county treasurer the proportion of the license tax due each county.

The county treasurer of each county shall retain one-fourth (¼) of said license tax, and shall, within thirty (30) days after receipt thereof, apportion the remaining three-fourths (¾) thereof to the treasurers of the incorporated cities and towns within his county, said apportionment to be based in each instance upon the proportion which the gross sale of liquor in such incorporated city or town bears to the gross sale of liquor in all of the incorporated cities and towns in his said county."

Section 18. Section 4-324, R.C.M. 1947, is amended to read as follows:

"4-324. **Tax on imported beer — computation in case of barrels of capacity other than thirty-one gallons.** A tax of three dollars ($3) per barrel of thirty-one (31) gallons, is hereby levied and imposed on each and every barrel of beer manufactured out of this state and sold herein by any wholesaler, which said tax shall be due at the end of each month from said wholesaler, upon any such beer so sold by him during that month. As to any beer imported and sold in containers other than barrels, or in barrels of more or less capacity than thirty-one (31) gallons, the quantity content shall be ascertained and computed by the *department of revenue* in determining the amount of tax due, as herein provided for. *An additional tax of twenty-five cents ($.25) per barrel is levied and imposed as provided by this section, and such additional tax is also to be levied and imposed at the same rate upon beer manufactured within the state. The additional tax of twenty-five cents ($.25) is to be deposited, notwithstanding sections 4-347, 4-347.1, or any other provision, in the general fund.*"

Section 19. There is a new section to be numbered 69-6224, R.C.M. 1947, which reads as follows:

69-6224. **Departmental reports to legislature.** The department and the department of institutions shall achieve full implementation of the provisions of the act, as set forth in this chapter and related sections, no later than January 1, 1976. A progress report on the implementation shall be made to the 1975 legislative session. Thereafter the departments shall report, to each legislative session, on the status of the implemented act. This report, or any part thereof, may be included as the department's state plan for alcohol abuse and alcoholism.

Section 20. Sections 4-164 and 69-6202, R.C.M. 1947, are repealed.

Approved March 25, 1974

CHAPTER NO. 303

AN ACT TO REQUIRE PHYSICIANS AND OTHER PERSONS IN HEALTH CARE PROFESSIONS TREATING VICTIMS OF GUNSHOT WOUNDS AND STABBINGS TO REPORT TO A LAW ENFORCEMENT OFFICER.

Be it enacted by the Legislature of the State of Montana:

Section 1. There is a new section to be numbered 66-1050, R.C.M. 1947, which reads as follows:

66-1050. **Gunshot or stab wounds to be reported.** The physician, nurse, or other person licensed to practice a health care profession, treating the victim of a gunshot wound or stabbing, shall make a report to a law enforcement officer by the fastest possible means. Within twenty-four (24) hours after initial treatment or first observation of the wound, a written report shall be submitted including the name and address of the victim, if known, and shall be sent by regular mail.